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Assistance to Guatemala in the field of human rights

Report by the Independent Expert, Mrs. Mónica Pinto, on the situation of human rights in Guatemala, prepared in accordance with Commission resolution 1994/58

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INTRODUCTION

1. The Commission on Human Rights has been considering the situation of human rights in Guatemala since its thirty-fifth session (1979). In its resolution 1982/31 it decided for the first time to request its Chairman to appoint a Special Rapporteur of the Commission whose mandate would be to make a detailed study of the human rights situation in Guatemala. The following year, after the request had been reiterated, the Chairman appointed Viscount Colville of Culross (United Kingdom), who acted as Special Rapporteur until 1986. In its resolution 1986/62, the Commission requested the appointment of a special representative whose mandate would be to receive and evaluate the information received from the Government about the implementation of the new legislation intended to protect human rights. Viscount Colville of Culross was reappointed in that capacity, and in 1987, the mandate of the Special Representative was terminated.

2. In its resolution 1987/53, the Commission requested the Secretary-General to appoint an expert with a view to assisting the Government in adopting the necessary measures for the subsequent restoration of human rights. On 24 June 1987, Mr. Héctor Gros Espiell (Uruguay) was appointed for that purpose; his resignation was accepted in 1990.

3. On 7 March 1990, in its resolution 1990/80 the Commission requested the Secretary-General to appoint an independent expert as his representative to examine the human rights situation and to continue assistance to the Government in the field of human rights. On 6 July 1990, Professor Christian Tomuschat (Federal Republic of Germany) was appointed. Professor Tomuschat's mandate ended on 7 June 1993, when the Secretary-General informed him of his desire to establish a rotation of independent experts among the different nationalities represented in the United Nations and thanked him for his contribution in discharging the mandate that had been entrusted to him.

4. In its resolution 1993/88, the Commission on Human Rights requested the Secretary-General to extend the mandate of the Expert; that extension was approved by the Economic and Social Council on 21 October 1993 (decision 1993/336). On 28 October 1993, the Secretary-General accordingly appointed Professor Mónica Pinto (Argentina) as his representative and Independent Expert to examine the human rights situation in Guatemala and continue assistance to the Government in the field of human rights, in accordance with the mandate received from the Commission on Human Rights in its resolution 1993/88.

5. Professor Pinto submitted her first report (E/CN.4/1994/10) at the fiftieth session of the Commission on Human Rights, which considered it and adopted resolution 1994/58. In that resolution the Commission took note of the report submitted and requested the Secretary-General to extend the mandate of the Independent Expert so that she might continue to examine the situation of human rights in Guatemala, provide assistance to the Government in the field of human rights and submit to the Commission at its fifty-first session a report assessing the measures taken by the Government in accordance with the recommendations made to it. On 5 May 1994, the Secretary-General invited

Professor Pinto to accept the extension of her mandate. On 22 July 1994, by its decision 1994/257, the Economic and Social Council approved the renewal of the mandate.

6. On 25 August 1994, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted resolution 1994/23, in which it expressed its support for the Government and the Unidad Revolucionaria Nacional Guatemalteca (URNG), as well as the United Nations Mediator, in their endeavours to secure a firm and lasting peace. The Sub-Commission also expressed its firm support for the Independent Expert and requested the Government to cooperate with her. It further expressed its concern at the fact that the signing of the Comprehensive Agreement on Human Rights had not led to an improvement in the human rights situation.

7. From 29 May to 3 June 1994, the Expert held the first round of consultations in Geneva in the context of her mandate. During this period she attended the first Meeting of Special Rapporteurs/Representatives/Experts and Chairmen of Working Groups of the Commission on Human Rights; she had meetings with representatives of the Government (Minister for Foreign Affairs and Permanent Representative of Guatemala to the International Organizations at Geneva) and civil society, and with Mr. Leonardo Franco, head of the preliminary mission of verification of the Comprehensive Agreement on Human Rights.

8. On 23 June 1994, the Expert addressed a letter to President Ramiro de León Carpio requesting authorization to visit the country from 24 July to 5 August 1994. The President subsequently informed her of his agreement by telephone. However, on 21 July the Minister for Foreign Affairs telephoned the Centre for Human Rights to say that it would be impossible for the Ministry and the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH) to receive the Expert on the dates in question. In those circumstances, the Expert was obliged to postpone her visit to Guatemala. Later, in a letter dated 16 August 1994, delivered personally by the Guatemalan Ambassador to Argentina on 22 August 1994, the Minister invited the Expert to visit the country. The invitation was accepted and, on 10 October 1994, the Minister informed the Expert that the Government considered the proposed dates - 16 to 27 November - to be appropriate and at the same time confirmed her willingness to extend to the Expert her fullest cooperation in the discharge of the Expert's mandate, as on previous occasions.

9. On 23 September 1994, the Expert was invited by the Inter-American Commission on Human Rights to explain to its members in plenary session the conclusions of the report which she had submitted to the United Nations Commission on Human Rights and took the opportunity to engage in a fruitful exchange of views. On 14 November 1994, the Expert again visited the Inter-American Commission, where she met the Executive Secretary and her advisers. Two days later she was received by Professor Claudio Grossman, a member of the Inter-American Commission.

10. In fulfilment of her current mandate, the Expert visited the Republic of Guatemala for the second time from 16 to 27 November 1994 and, after her visit, held consultations and interviews at United Nations Headquarters in

New York, at the United Nations Office in Geneva, and in Washington and Mexico. Her programme of work is outlined in the annex to this report. She consulted all accessible and reliable sources in order to acquaint herself with the development of the human rights situation in Guatemala. In doing so, she was afforded extensive cooperation by the Government. In addition to consulting the documentation received from other United Nations bodies, intergovernmental organizations and non-governmental organizations, she freely interviewed a large number of persons and representatives of Guatemalan human rights, social, trade union, economic and indigenous organizations.

11. The information compiled was analysed in the light of the international human rights instruments which are binding on Guatemala, namely, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Slavery Convention and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, the Convention and the Protocol relating to the Status of Refugees, and a large number of international labour conventions, including in particular Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize, 1948, Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, 1949, and Convention No. 111 concerning Discrimination in respect of Employment and Occupation, 1958. Guatemala is also a party to the four Geneva Conventions on international humanitarian law of 1949 and the two Additional Protocols of 1977, the American Convention of Human Rights, having recognized the jurisdiction of the Inter-American Court of Human Rights on 20 February 1987, and the Inter-American Convention to Prevent and Punish Torture. The above-mentioned instruments take precedence over Guatemalan internal law under article 46 of the 1985 Constitution (amended in 1994).

12. The mandate entrusted to the Expert consists in: (a) reporting to the Commission on developments in the general human rights situation in Guatemala, for which purpose she submits duly confirmed information in order to enable the Commission to draw conclusions and make recommendations; (b) advising and assisting the Government in the field of human rights, making specific recommendations to it; (c) for purely humanitarian reasons, using her good offices with the Government in individual cases on request. In this latter connection, results have been uneven, although all cases have been well received by the Government.

13. This report refers to events between January and November 1994. Exceptionally, when circumstances have, in the Expert's opinion, so required, earlier events have been mentioned.

I. THE POLITICAL AND INSTITUTIONAL CONTEXT IN 1994

14. The political and institutional context in Guatemala in 1994 was characterized by two constant features, equally important but contrasting in their purposes and results. The year began under the shadow of the Zapatista uprising on 1 January 1994 in the neighbouring Mexican state of Chiapas, with which geographical, demographic, social and cultural continuity exists. This was followed by the peace negotiation process, initiated as a consequence of the Framework Agreement for the Resumption of the Negotiating Process between the Government and the URNG concluded on 10 January 1994, and at the same time widespread violence.

15. On 30 January 1994, the referendum was held on the constitutional reforms, which were finally approved by 70 per cent of voters. However, the referendum recorded the highest ever level of non-participation, 85 per cent; of the 3.5 million persons eligible to vote, only 500,000 did so. A "yes" vote was supported by the Government, the Guatemalan Revolutionary Front (FRG) led by General Efraín Ríos Montt, the National Centre Union (UCN), the Democratic Socialist Party (PSD), the Solidarity Action Movement (MAS) of former President Serrano and other smaller groups. Public support for a "no" vote or abstention was expressed by the National Advance Party (PAN), the trade union organizations, the Guatemalan General Labour Confederation (CGTC), the Guatemalan Workers' Union (UNSITRAGUA), and the grass-roots and human rights organizations. On 8 April 1994 the amendments to the Constitution came into force.

16. In the same month, the Guatemalan army's Information and Publicity Department (DIDE) published a document in English entitled "Threats to the consolidation of the democratic system in Guatemala", in which it was stated, among other things, that the army was the sole guarantor of the State and reference was made to "subversion" by the non-governmental human rights organizations.

17. On 10 February 1994, President Ramiro de León Carpio convened the Great National Agreement and gave explanations to the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF) and the State workers' union. In this context, the Government put forward a number of undertakings: respect and realization of human rights and public security; transparency and austerity of government administration and their monitoring by society; modernization of the political institutions and a new ethos of participation; efficient functioning of markets, elimination of controls and obstacles to productive activity, and establishment of modern regulations; consolidation of the macroeconomic bases of stability and economic growth; promotion of social equity and the fight against poverty. The various sectors, which were convened by the Government and society in general, have reacted with scepticism to the governmental proposal. The CACIF has claimed that the undertakings lack clarity and that there are no concrete objectives.

18. The changes introduced in the Cabinet of Ministers in the previous month - appointment of Mrs. Marithza Ruiz de Vielman as Minister for Foreign Affairs - were followed by further changes. Mr. Arnaldo Ortiz Moscoso resigned from the post of Minister of the Interior and was succeeded by

Mr. Danilo Parrinello, member of the Authentic Nationalist Central Organization. Changes were also made at other levels: Colonel Mario Mérida, former Director of Intelligence, was appointed Deputy Minister of the Interior; Mr. Salvador Figureroa replaced Mr. Mario Cifuentes as Director of the National Police. The President removed General José Luis Quilo Ayuso from the post of Head of the Chiefs of Staff and replaced him by General Marco Antonio González Taracena, who had been Deputy Head since 28 July 1993. At the public leave-taking ceremony organized by the military high command for General Quilo Ayuso, at which he was decorated for his military services by the President of the Republic in his capacity as Commander-in-Chief of the army, the retiring General made strong criticisms of the President, whom he accused of having tried to manipulate the Civil Self-Defence Patrols (PACs) in order to induce them to vote "yes" in the referendum of 30 January. The statements were promptly rejected by the President of the Republic and by General Mario Enríquez, Minister of Defence.

19. The successful conclusion of the Comprehensive Agreement on Human Rights on 29 March 1994 was tarnished by the brutal assassination of Mr. Epaminondas Gonzáles Dubón, President of the Constitutionality Court, who had maintained a firm and decisive attitude to the "self-coup" of 25 May 1993. On 7 April 1994, reports of the existence of a destabilization plan appeared in the press. Some days later, the Minister of the Interior publicized a security plan to be carried out by the police and armed forces consisting of a greater presence of these forces in the streets, the establishment of a rapid-response group, the formation of an élite criminal-investigation group and the designation of a telephone number to report criminal acts.

20. The deterioration of the situation, and consequently the deterioration in human rights, led the plenary Congress to issue a statement requesting the United Nations to appoint a special rapporteur. The situation worsened further when Congress approved an extension of the death penalty, in blatant violation of the provisions of article 4 of the American Convention on Human Rights.

21. The entry into force of the constitutional reforms on 8 April 1994 enabled the Supreme Electoral Tribunal (TSE) to call parliamentary elections for 14 August 1994 for the purpose of electing 80 deputies. The calling of elections was judicially questioned by Mr. Carlos Arroyave Cerna, the MAS deputy, who applied for a provisional remedy of <u>amparo</u> against the TSE decision to the Supreme Court of Justice, which granted it. Against this act the TSE lodged an appeal with the Constitutionality Court, which on 27 April rescinded the decision of the Supreme Court. Mr. Arroyave Cerna then requested that preliminary proceedings be brought against the members of the TSE in the Second Court of Investigation. The deputy Jóse Carlos Acevedo Chavarría also brought an action of unconstitutionality against the decision to call elections; the Constitutionality Court ruled this action to be inadmissible on 20 July 1994.

22. At the end of May the Government encountered difficulties in paying the wages of public employees owing to the decline in tax revenue and the refusal of the Congress of the Republic to approve a new "tax package" which would

modify taxes and provide for a moratorium. The rumours of a coup d'etat in April 1994 continued, according to official media, with an attempt on the life of the President of the Republic on 30 June 1994, the National Day.

23. On 11 July, a spokesman for Members of Parliament considered to be "expendable" under the policy initiated by the President during his first months in office announced that consideration was being given to an amnesty for offences committed with political motives and for ordinary offences committed by government officials and deputies, and to a pardon for tax offences. The Minister of Defence expressed support for an amnesty for persons who had committed offences in the struggle against the insurgents. The CACIF did not express an opinion on the question, while the human rights organizations considered that such an amnesty would violate the Comprehensive Agreement on Human Rights.

24. The parliamentary elections were duly held on 14 August 1994. Non-participation was the real winner, only 19.5 per cent of the electorate casting a vote. The FRG, led by General Ríos Montt, won 32 seats (the majority) and was followed by the PAN with 24, the Guatemalan Christian Democrat Party with 13, the UCN with 7, the National Liberation Movement with 3 and the Democratic Union with 1. The office of President of Congress was entrusted to the PAN deputy, Mrs. Arabella Castro de Comparini, who was to be succeeded in January by General Ríos Montt.

II. THE KEYS TO THE HUMAN RIGHTS SITUATION IN GUATEMALA

A. The internal armed conflict and the peace process

25. After the stagnation of the negotiations, the self-coup by former President Jorge Serrano Elías and the limited response to the peace programme presented by the Government of President Ramiro de León Carpio to the General Assembly of the United Nations in September 1993, representatives of the Government and the URNG met for five days in Mexico City under the auspices of the United Nations with the aim of finding a new framework for negotiations. As a result of that meeting, on 10 January 1994 the Government of Guatemala and the URNG concluded a Framework Agreement for the Resumption of Negotiations, with the aim of ending a bloody armed conflict which has continued for more than 33 years and has resulted in countless human and material losses.

26. The six-point Agreement redefines the negotiating process, respecting the progress achieved since the earlier Oslo agreements of April 1990. Agreement is reached on direct negotiation on the basis of the so-called Mexico agenda, agreed on in April 1991, and moderated by a representative of the Secretary-General of the United Nations, Mr. Jean Arnault having been appointed for that purpose. In these negotiations, which are to be held in the strictest confidentiality, a time-limit has been set for a firm and lasting peace agreement, which should be reached as soon as possible in the course of 1994. In order to expedite and strengthen the peace process, and recognizing the essential role of civil society, the parties agreed to promote the establishment of an assembly, "open to the participation of all non-governmental sectors of Guatemalan society, provided that their legitimacy, representative character and lawfulness have been recognized",

which would promote understanding between the parties through efforts to reach consensus within civil society on key subjects in the negotiating process. In addition, they requested the Episcopal Conference to appoint the president of this civil-society assembly, considering for this office Monsignor Quesada Toruño, the conciliator in the peace process. With a view to strengthening the negotiating process, the parties requested the Governments of Colombia, Mexico, Norway, Spain, the United States and Venezuela to form a "Group of Friends of the Peace Process". Lastly, they reiterated that verification was a vital element in ensuring compliance with the agreements and accordingly requested international verification by the United Nations of all the agreements.

27. Negotiations on substantive issues, scheduled for the second half of February 1994, were postponed at the request of the Government of Guatemala on the grounds that holding such negotiations at the same time as the fiftieth session of the Commission on Human Rights would impede progress. In Mexico City on 29 March 1994, the parties adopted three documents: an Agreement on a Time-table for Negotiations on a Firm and Lasting Peace; a Comprehensive Agreement on Human Rights; and a Joint Statement by the Government and the URNG to facilitate the signing of the agreement on human rights.

28. The schedule for the negotiations is as follows: May 1994 - resettlement of population groups uprooted by the armed confrontation; June 1994 - identity and rights of indigenous peoples; July 1994 - socio-economic aspects and agrarian situation; August 1994 - strengthening of civilian power and role of the army in a democratic society; September 1994 - bases for the reintegration of the URNG in Guatemalan political life and agreement on a permanent cease-fire; October 1994 - constitutional reforms and electoral system; November 1994 - schedule for the implementation, execution and verification of the agreements; December 1994 - signing of a firm and lasting peace agreement and start of demobilization. On the same occasion, it was decided that the question of the commission to clarify human rights violations during the armed conflict should be considered at a special session to be held in May 1994.

29. The Comprehensive Agreement on Human Rights sets forth the general commitment of the Government of Guatemala to respect human rights throughout the country and to continue to encourage measures designed to promote and perfect norms and mechanisms for the protection of human rights (sect. I). In this context, provision is made for the strengthening of the Office of the Procurator for Human Rights, the Judiciary and the Public Prosecutor's Office (sect. II). The Government further undertakes not to promote the adoption of legislative or other measures designed to secure the impunity of persons responsible for human rights violations, and to characterize and punish particularly serious crimes such as enforced disappearance of persons and summary or arbitrary execution (sect. III). The Government's specific commitments extend to the adoption of special measures to protect individuals and entities working to safeguard human rights (sect. VII), and compensation or assistance to victims of human rights violations (sect. VIII). To the general declaration that there must be no unlawful bodies or clandestine security apparatus is added the Government's commitment to continue the purging and professionalization of the security forces and to ensure that there is no forcible recruitment for military service (sect. VI). As regards

the so-called "civil self-defence patrols" (PACs), it is agreed that this question should be considered together with other questions on the general agenda, although progress has been made in the form of the Government's commitment not to encourage or establish further volunteer civil defence committees, "provided that there is no reason for it to do so" (sect. V). Both parties agree to respect human rights in the context of the armed conflict, but without giving this agreement the character of a special agreement under the terms of article 3 of the 1949 Geneva Conventions on international humanitarian law (sect. IX).

30. The Comprehensive Agreement contains a lengthy section relating to international verification by the United Nations aimed at strengthening the national system for the protection of human rights, these rights being understood as those recognized in Guatemalan law, including those set forth in treaties and other international instruments in this field. The Verification Mission will perform the functions of direct verification of any human rights violations resulting from acts or situations occurring after its establishment through the receipt of complaints, their evaluation and follow-up, and the subsequent determination whether or not a violation has occurred. All this will be done under the powers conferred by paragraph 10, which include the Mission's right to set itself up and move freely throughout the national territory, to interview any person or group of persons freely and privately, to make unannounced visits freely and whenever it deems this necessary, and to collect relevant information for the implementation of its mandate. It must also check that the competent national institutions make the necessary investigations in an independent and efficient manner and in conformity with the Guatemalan Constitution and the international human rights instruments; for this purpose it may cooperate with them and offer support to the Judiciary and its auxiliary bodies, the Public Prosecutor's Office, the Procurator for Human Rights and COPREDEH. The Mission was set up with an initial mandate for one year, which is renewable. Exceptionally, it was agreed that verification of the Comprehensive Agreement on Human Rights would begin before the signing of the Agreement on a Firm and Lasting Peace.

31. In April 1994, the Episcopal Conference appointed Monsignor Quezada Toruño to preside over the Assembly of Civil Sectors. Through this action the Catholic Church is again taking part in the peace process after having distanced itself from the Government when the latter modified the negotiating format. In addition, from 24 April to 9 May 1994 a preliminary mission, led by Mr. Leonardo Franco, visited Guatemala with the aim of evaluating the needs that would arise from the initiation of the observation mission there.

32. On 11 April 1994, a communiqué from the URNG reported the shooting of a peasant by military forces in Petén. Three days later, five peasants who stated that they had belonged to the Revolutionary Organization of the People in Arms (ORPA) - one of the organizations making up the URNG - gave a press conference on military premises and announced their decision to abandon the armed struggle, to avail themselves of an amnesty and to request military protection. Some hours later, a communiqué from the URNG maintained that they were prisoners of the army, but this was not acknowledged by the Government.

33. On 11 May 1994, the newspaper Siglo XXI published a declaration by the URNG, dated two days previously, relating to the levying of a "war tax". It stated that "as long as the armed conflict continues, and until such time as it is resolved through negotiation and a political agreement is achieved between the negotiating parties, this type of URNG operation will be maintained". A few days later, the CACIF published a response in the same newspaper, accusing the URNG of "economic sabotage, blackmail and mindless terrorism".

34. In May 1994, two soldiers were killed by a Claymore mine while pursuing a column of insurgents in La Reforma, San Marcos. The army spokesman accused the URNG of continuing a terrorist campaign while negotiations on the resettlement of persons displaced by the armed confrontation were under way in Puebla (Mexico). The army reported the case to the Office of the Procurator for Human Rights, stating that the use of anti-personnel mines constituted a violation of human rights. As indicated in the Expert's previous report, there is still in Guatemala widespread confusion resulting from the violations of human rights and of international humanitarian law.

35. On 17 June 1994, in Oslo, the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict was signed. These groups comprise refugees, returnees and internally displaced persons, either dispersed or in groups, including the Communities in Resistance (CPRs). The resettlement in question is defined as the legal process of return of uprooted population groups and individuals to their place of origin or another place of their choice in Guatemalan territory, and their relocation and integration therein, in accordance with the Guatemalan Constitution. The persons involved are 40,000 Guatemalans living in refugee camps in Mexico and approximately 1 million peasants who were forced to leave their communities during the war years because of the systematic scorched-earth operations carried out by the army.

36. The Agreement provides resettlement guarantees, particularly with regard to physical security, education, documentation and legal security in relation to land tenure. It also contains a number of commitments relating to a strategy for the productive integration of the uprooted population groups, with emphasis on the sustainable rural development of the areas of resettlement. It further provides that implementation of the commitments contained in the comprehensive resettlement strategy will be achieved through the execution of specific projects. For this purpose, a technical committee has been established for the implementation of the Agreement. It was to be formed within 60 days of the signing and to be made up of two representatives designated by the Government - the presidents of the National Committee for Aid to Returnees, Refugees and Displaced Persons (CEAR) and of the National Fund for Peace (FONAPAZ), two representatives designated by the uprooted population groups and, on a consultative basis, two representatives of donors, cooperating bodies and international cooperation agencies.

37. One week later on 23 June 1994, again in Oslo, the Agreement was signed on the establishment of the Commission to clarify past human rights violations and acts of violence that have caused suffering in the Guatemalan population. The Agreement provides for the establishment of a Commission made up of the United Nations Moderator, a citizen of irreproachable character designated by

the Moderator by mutual agreement with the parties, and an academic selected by the Moderator by mutual agreement with the parties from a list drawn up by the university rectors, after the signing of the Agreement on a Firm and Lasting Peace. The Commission is to work for six months, extendable for a further six months, on the drafting of a report on events from the start of the armed conflict until the signing of the peace agreement, for submission to the parties and to the Secretary-General of the United Nations, who will publish it. For the purposes of the preparation of its report, the Commission will receive particulars and information from individuals or institutions that consider themselves to be affected, and from the parties. The Commission will not attribute responsibility and its work will not have judicial aims.

38. After the important agreements of June 1994 the negotiations stagnated, probably owing to action at levels lower than those of the negotiators. In July, referring to the increase in violence, the URNG published a declaration drawing attention to the failure to implement the Comprehensive Agreement on Human Rights. During the last days of the month, the press reported guerrilla actions in San Miguel Pochuta, Chimaltenango, which resulted in the destruction of buildings on three farms, including the home of one of the farmers, because of the owners' refusal to pay the war tax.

39. On 4 August 1994, the URNG command published a statement denouncing the deterioration in the human rights situation in Guatemala and making a return to the negotiating table conditional upon the Government's implementation of specific aspects of the Comprehensive Agreement on Human Rights; at the same time it called on the United Nations speedily to establish the Verification Mission. The aspects mentioned were a campaign to publicize the content of the Comprehensive Agreement in Spanish and the Maya languages, the cessation of the military harassment of returnees, displaced persons and CPRs, the permanent abolition of forcible recruitment, the adoption of measures to avert repression against NGOs and to prevent the campaigns of intimidation and threats by the PACs, the investigation of criminal acts of an undeniably political character and the intervention of the Group of Friendly Countries to secure all the above.

40. On 9 August 1994, the Minister of Defence announced the discovery of a URNG arsenal, which he described as the largest found in 33 years. At the same time he presented three "reformed terrorists" - Amílcar Cáceres, Mavil Camargo and Pascual Pérez, former members of the Revolutionary Armed Forces (FARs) - who had allegedly handed over the weapons in order to take advantage of an amnesty. The next day, the URNG acknowledged that it had owned the weapons and, in a communiqué issued in Mexico, stated that it would keep a reserve of munitions until such time as the peace agreement was implemented. The URNG questioned the "reformed" character of its three members, stating that they had been arrested by military intelligence forces on 31 July in Escuintla and had been tortured. It further pointed out that a fourth member had been detained but not presented, and requested that all of them should be placed in the custody of the Human Rights Procurator.

41. On 22 August 1994, a group of URNG fighters attacked the military detachment in the village of Chupol (department of Sololá). According to information given to the Expert by the Ministry of Defence, the URNG command and non-governmental organizations, vehicles travelling on the Inter-American

Highway were stopped by barricades set up by the URNG. Owing to the frequency of attacks on vehicles in that place, the driver of a bus was able to avoid the obstacle and drive on. When it did not stop, the bus was fired on, the aim being concentrated on the tyres. According to newspaper reports and the records of the hospitals that treated the casualties, 23 people were injured, including 11 civilians, and 3 killed, one of whom was a civilian. The views expressed by the sources consulted by the Expert concerning responsibility for the fate of the civilians are divergent. In any event, the incident at Chupol went beyond the purely military sphere and falls within the context of violations of international humanitarian law. On 30 August 1994, the Human Rights Procurator expressed an opinion on these events, ascribing responsibility to the URNG. Despite the fact that the resolution does not expressly mention international humanitarian law, this is implicit in its wording, in what is the first formal declaration by a State body on the validity of the provisions of international humanitarian law in the internal armed conflict in Guatemala.

42. On 3 September 1994, members of the guerrilla organizations held a meeting at the Panul crossroads, near the village of Patzaj in the municipality of Comalapa (department of Chimaltenango). According to reports by eyewitnesses, reserve infantry sub-lieutenant Amarildo Sanán Hernández, who had been assigned to the Comalapa detachment in August and was driving a private vehicle and wearing civilian clothes, was intercepted by the guerrilla group, identified and killed. However, both the URNG and the DIDE maintained that the sub-lieutenant's death had occurred in an armed clash.

43. On 19 September 1994, the General Assembly of the United Nations adopted without a vote resolution 48/267, by which it authorized the establishment, for an initial period of six months, of a "Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala". The following day, the Secretary-General appointed Mr. Leonardo Franco as director of the Mission. Mr. Franco immediately headed a preliminary technical commission which travelled to Guatemala and described the human rights situation there as alarming.

44. On 9 October 1994, members of the URNG stole two nets containing approximately 1,200 corn-cobs in the village of Vi Tzitze (Quiché). When the local smallholders, all members of the PACs, questioned them, they said that they had eaten the corn. The smallholders lodged a complaint with the Juridical-Legal Office in San Gaspar de Chajul and with the branch of the Human Rights Procurator's Office in Nebaj. This incident appears to constitute a violation of the provisions of international humanitarian law, which grant protection of goods essential for the survival of the civilian population.

45. The stagnation of the negotiations showed signs of ending in late September 1994, when the Government and the URNG, with a small delegation, met in Mexico with a view to restoring plenary sessions. Finally, the parties were convened on 20 October in Mexico City with the aim of beginning consideration of the agenda item entitled "Identity and rights of the

indigenous peoples". On 25 October, the first phase of this round ended with statements on the progress achieved. The meetings were continuing at the time of completion of this report, namely, in early December.

46. On 21 November 1994, Mr. Leonardo Franco, Director of the MINUGUA, formally initiated the Verification Mission before the diplomatic community accredited in Guatemala, including the representatives of the international organizations. This event was also attended by the Moderator of the peace process and the Independent Expert. Two days later, the regional office was inaugurated in Guatemala City, Mrs. Leila Lima having been appointed as its head.

47. At the beginning of December, it was becoming apparent that it would be impossible to keep to the agreed timetable for negotiations and the impression gained was that it would have to be revised.

B. The militarization of Guatemalan society

48. The high level of militarization of Guatemalan society, described in the Expert's preceding report, has persisted in 1994. The figures provided by the Defence Minister and the officers of the Presidential General Staff (EMP), the Intelligence Department of the Chiefs of Staff of National Defence and the Mobile Military Police (PMA) are similar to those contained in the preceding report. However, on her second visit, the Expert was informed that the number of members of PACs had been reduced from 537,000 to 376,000, all of them unarmed, whereas in 1993 16,700 PAC members carried firearms. Consequently, Guatemala continues to have about half a million people at various levels of militarization, out of a population of approximately 10 million, to deal with a revolutionary force of about 800 individuals, according to data provided by the Minister of Defence in 1993.

49. The army and other militarized groups are present throughout the country, whereas the civil authorities are represented only in the towns. Socially and economically, the army continues to exert a powerful influence throughout the country through banking and financial institutions, its ownership of various information media and land, and in the schools. The growing reputation of the military for performance and efficiency continues to create a need for its presence in other than strictly military spheres. Consequently, faced with a situation of widespread violence, the President of the Republic appointed the former Director of Intelligence of the Chiefs of Staff, Colonel Mario Mérida, as Deputy Minister of the Interior, with responsibility for security and thus for the National Police, thereby militarizing an area designated a year earlier by the same President as the preserve of the civil authorities.

50. In this connection, the Expert received many reports, some of them from police officers, concerning the appointment of military personnel to National Police posts and their membership of the Rapid Response Force (FRI) established by Government Decision No. 540-94 of 29 August 1994 and officially comprising only police personnel specially trained and equipped to deal with crimes of major importance and complexity.

51. The overlapping of the functions of the three police forces (the National Police, the Financial Police and the Mobile Military Police (PMA)), mentioned

in the preceding report, still obtains. The Expert has received reports of continuous patrolling by the PMA in rural areas. The amalgamation of the first two forces and the assignment of the third to strictly military functions, as recommended by the Expert, have met with obstacles. In the working paper prepared by COPREDEH for the follow-up to the recommendations, it is stated in this connection that "for reasons of internal security and given the specific functions of each of the police forces, it is not possible to amalgamate them for the time being".

52. The Commission has reported numerous excesses by elements of the military and the unlawful activities of those elements have been recognized by the Office of the Human Rights Procurator. On 4 January 1994, the Human Rights Procurator found that members of the armed forces had violated the human rights of Norberto Felipe González Iboy. On 23 August 1994, the Procurator found that José Felipe Ramos López, José Abraham Calderón Ovando, members of the National Police's Department of Criminal Investigation, and Carlos Antonio Godoy Aldana, a member of the EMP, had violated the rights to freedom, security and physical integrity of Gueder Serapio Quezada García and Milca Vicenta Hernández Pelaez by acts committed in 1993.

53. On 11 February 1994, a group of soldiers approached the town of Santiago Atitlán, which had been demilitarized following a massacre there in December 1992, provoking a reaction on the part of the population and the justice of the peace, who went out to meet them. In the events that followed, Juan Quiejú Quic was shot in the legs by the soldiers.

54. On 23 February 1994, the Human Rights Procurator called upon the National Congress to repeal Decree No. 19-86 sanctioning the operations of the PACs, on the grounds that they had created a climate of fear among the population in areas where they operated and that ensuring the safety of the population was the function of the police and the army, which were the only bodies legally authorized to use force.

55. Both the limitation of military intelligence to specifically military matters and the creation of a State civil intelligence service, as recommended in the preceding report, were the subjects of a bill submitted to Congress on 31 October 1994 proposing the establishment of a national security council and a State intelligence secretariat. The latter body would operate as an autonomous entity within the Executive and would provide the Government with the intelligence necessary to forestall or counter any act prejudicial to national security. Under article 18 of the bill, the Secretary and Deputy Secretary of Intelligence, who would be appointed by the President of the Republic, could not both be civilians or military personnel, thus sharing responsibility between the civil and military authorities. Also under the bill, all officials and authorities of government agencies and decentralized, autonomous, semi-autonomous or municipal institutions must cooperate fully with the Intelligence Secretariat, which would be expressly prohibited from conducting investigations aimed at obtaining evidence to be used in judicial proceedings or from participating as an auxiliary of the Public Prosecutor. Under article 8, any matter, act or document of the Intelligence Secretariat which, if made public, might provoke or foster armed conflict of an

international or non-international character or internal unrest, as defined in international law, must be considered a military matter for the purposes of article 30 of the Constitution and be dealt with by the Security Council.

56. The extent of military jurisdiction in Guatemala, described in the last report as a kind of personal jurisdiction contrary to the provisions of article 14 of the International Covenant on Civil and Political Rights and article 8 of the American Convention on Human Rights, has undergone a number of changes since the entry into force of the new Code of Criminal Procedure on 1 July 1994. Article 546 of the Code amends article 2 of Decree No. 214-1878 by providing that "ordinary offences and misdemeanours committed by military personnel, or military offences connected with ordinary offences or misdemeanours" shall be dealt with under the Code of Criminal Procedure, without any reference to substantive law. Specifically, the Code provides that the preliminary investigation and the institution of criminal proceedings shall be the responsibility of the Public Prosecutor and that the supervision of the investigation and intermediate proceedings shall be the responsibility of military investigating magistrates, who must be lawyers. The trial court, before which the oral proceedings are conducted, is a military court consisting of the ordinary trial court (three judges) and two senior officers of the Guatemalan army. Appeals are heard by the criminal divisions of the appeal courts and judicial review proceedings by the Criminal Chamber of the Supreme Court of Justice.

57. In this connection, it should be noted that, while some progress has been made in restricting military jurisdiction, it has not been possible completely to prevent the military courts from dealing with cases in which there is prima facie evidence that members of the army have been involved in the commission of ordinary offences. The supervision of the investigation conducted by the Public Prosecutor through military judges who are qualified lawyers, the participation of two army officers in the trial stage and the designation of the court as a military court show that all that has been achieved so far is a cross between military and civil jurisdiction. Moreover, the fact that the seats of the courts of first instance are on military bases compromises the ability of the civil trial-court judges who are members of the military court to reach an independent finding.

C. The social violence

58. The year 1994 was marked by an unusual escalation in social violence accompanying each and every political initiative in the peace process. In the capital during the month of January, numerous acts of terrorism were committed against the background of uncertainty created by the referendum. Whereas in 1993 threats were most commonly used to exert psychological pressure, 1994 saw an escalation in acts of physical violence.

59. On 28 January 1994, the bodies of María Muñoz, wife of the journalist Marco Mejía, and her 14 year-old daughter were found; they had been strangled. At about the same time, Mynor Luna Lima, the son of the President of the National Transport Federation, was kidnapped. At the beginning of February, Fraterno Vila Girón, a businessman and son of the former candidate for

Vice-President of the Republic, was kidnapped (he was released unharmed on 2 May), as were Marvin Martínez Estrada and Edgar Gilberto Torres, member and former President of the Association of University Students.

60. On 8 February 1994, the President of the Republic made statements attributing the wave of violence and kidnappings to the country's social and economic disintegration, as well as to groups endeavouring to create a climate of violence and instability. Late February and early March were marked by an undisguised outbreak of xenophobia directed against United States citizens accused of stealing children. An attempt was even made to lynch Mrs. Melisa Carls Larson, who had to be hospitalized and was ultimately repatriated under the supervision of the United States Ambassador. A similar case was that of Diane Weinstock, also a United States citizen.

61. On 7 March, the body of businessman Hernández Montt, who had been kidnapped a week earlier, was found with the hands amputated. On 11 March 1994, unidentified persons in military clothing killed José David Yapan Delén, a protestant pastor in San Lucas Tolimán, Solola. The local population reacted by taking a number of police officers hostage. Three days later, at an open meeting, they demanded the removal of the police substation and the military post. The Chief of Police agreed to leave, but said that the municipal authorities would be responsible for security. The second in command of Zone 14 said that any decision to leave must come from the high command.

62. Numerous acts of violence were also perpetrated in April: on 6 April, the deputy Obdulio Chinchilla Vega was attacked; on 19 April, the congressional adviser, Jorge Nisthal Recinos and army captain Héctor Melgar Rodríguez were found dead under a bridge in the capital, presumably having shot each other; on the same day, there were two attempted lynchings in San Juan Comalapa, Chimaltenango. At the beginning of May, the journalist Diego Molina died in mysterious circumstances in an accident on the Pacific Highway. The violence extended to the Catholic Church which, on 4 May, reported the destruction of images in El Quiché by groups of fanatical evangelists. Towards the end of the month, there were bomb explosions in the business district of Guatemala City, although there were no casualties. One of the buildings damaged was the residence of Fernando Quezada Toruño, the brother of the President of the Assembly of Civil Sectors.

63. In early June 1994, the body of Germán de León Parejón, leader of the Quetzaltenango Workers' Union, was found bearing marks of torture and bullet wounds after he had been kidnapped by armed men, one of them in police uniform, in a car without licence plates. On 17 June, Major Carlos Cárdenas Sagastume was found dead on the outskirts of the capital. Seven days later, his brother-in-law, army Major Hugo Morales García, and his wife were attacked and seriously injured in an apparent kidnapping attempt.

64. On 6 July 1994, the Minister of Defence announced that the army was to be used to deal with gangs of youths, given the lack of national police resources and in response to public demand. Towards the end of the month, at a press conference, the Defence Minister said that one of the reasons for the increase in violence was speculation on the part of those responsible regarding the Expert's visit, which was scheduled for the end of the month and in the end

did not take place. The Deputy Minister of the Interior also linked the wave of violence to the expected visit by the Expert and accused human rights bodies of manipulation. This tallied with the statements by the army spokesman accusing the president of the Guatemalan Widows' National Coordinating Committee (CONAVIGUA), Rosalina Tuyuc, of being a guerrilla. On 23 August 1994, the judge of first instance in Chimaltenango, Edgar Ogaldez, was murdered in the vicinity of the campus of the University of San Carlos de Guatemala. On 6 September, CONAVIGUA, the Mutual Support Group (GAM) and the Peasant Unity Committee (CUC) held a demonstration in the centre of the capital to protest against government and military intimidation of grass-roots organizations.

65. The Human Rights Office of the Archdiocese of Guatemala (ODHA) recorded 781 murders to 31 October 1994, and GAM 929 during the same period. The reasons for these high figures have not been determined. Some reports received by the Expert suggest a sort of social cleansing directed mainly against marginal elements, such as members of youth gangs, street children and prostitutes. In other cases, acts of political violence appear to be treated as ordinary crimes. In any event, the wide scope of regulations on the purchase and bearing of arms and the slowness of the judicial system in dealing with acts of violence continue to contribute to the general impunity. This makes it even more imperative to review the machinery for the registration and control of the possession and bearing of firearms by a civil authority, as recommended in the preceding report. In this connection, the authorities pointed out to the Expert that "any change in the right to bear arms would require an amendment of the Constitution". It should be noted, however, that article 38 of the Constitution "recognizes the right to bear arms, regulated by law", which means that legal, careful and restrictive regulation of specific calibres and the imposition of certain conditions on persons bearing arms by a civil authority are not unconstitutional.

D. The widespread extreme poverty

66. Despite the clear acknowledgement of the widespread poverty of most of the Guatemalan population by the Government of President Ramiro de León Carpio, little progress has been made in this regard. Statistics published by the Economic Commission for Latin America (ECLA) show that 46 per cent of the urban population and 72 per cent of the rural population of Guatemala live in poverty, with a per capita income of less than US$ 60. The study shows that the poorest 25 per cent of households receive 5.4 per cent of income, while the richest 10 per cent receive 37.9 per cent of income.

67. Data provided to the Expert by the Minister of Labour refer to increases in minimum wages. For example, the basic wage in rural areas increased from 11.2 quetzales a day to 14.5 quetzales (slightly less than US$ 3) as from 20 October 1994. However, these figures are nominal since, according to information from workers, the level of non-compliance on the part of employers is high, particularly in the departments of Alta and Baja Verapaz, and on the south coast.

68. According to figures compiled by the Pan-American Health Organization (PAHO) and the World Health Organization (WHO) in their report on health

conditions in Guatemala in 1994, 62 per cent of the population live in rural areas, in 20,017 centres, 87 per cent of which have fewer than 500 inhabitants, making access to social services difficult and expensive. The Guatemalan population is very young: 45 per cent are less than 15 years old and only 3.3 per cent are over 65 years old. Females make up 49.5 per cent of the total population, slightly less than half of them being of child-bearing age.

69. The health statistics contained in the Expert's previous report are still valid: only 54 per cent of the urban population and 39 per cent of the rural population have access to a safe water supply, 90 per cent of piped systems are polluted to some extent, and the mortality rate in the first year of life is 54 per thousand. The illiteracy rate is 43 per cent. The authorities have identified the region comprising the departments of Alta Verapaz, Chiquimula and Escuintla as the most deprived in this respect. It is claimed that the population in some areas can eat only once a day.

70. There are estimated to be 5,000 street children in Guatemala City, in addition to those in Puerto Barrios, Puerto de San José, Escuintla and Mazatenango. A World Bank report published in September 1994 shows that, of the Latin American countries, Guatemala has one of the highest levels of poverty among indigenous groups, who have been completely bypassed by development. This study bears out the figures arrived at in this regard in the Expert's previous report.

E. The indigenous majority

71. In August 1994, COPREDEH published a paper on indigenous peoples in which it was stated that, according to the 1989 census figures, Guatemala has a population of approximately 8,663,859. The indigenous population is estimated to number 5,448,011, representing 59 per cent of the total population. Approximately 3 million people (32 per cent of the total) communicate in an indigenous language within their respective population groups: 29 per cent in Quiché, 25 per cent in Kakchiquel, 14 per cent in Kekchí and 4 per cent in Mam, with the remaining 28 per cent represented by communities using languages such as Pocomchí, Pocomam, Tzutuhil, Chortí, Canjobal, Aguacateco and Maya, among others. The paper states that some departments have high percentages of monolingual indigenous population: Alta Verapaz in the north (95 per cent), Sololá (85 per cent), Totonicapán (85 per cent) and San Marcos (80 per cent) in the south-west, and Quiché (80 per cent) and Huehuetenango (85 per cent) in the north-west. These regions have little socio-economic infrastructure and provide few basic public services. The Mayan organizations estimate that there are 20 language communities in Guatemala and that Quiché is spoken in 75 municipalities, Mam in 56, Kakchiquel in 49 and Kekchí in 23.

72. The Mayan majority is demanding constitutional recognition of the existence of four peoples in Guatemala: the Mayans, the Xincas, the Garífonas and the Ladinos, with their own procedures for designating authorities and representatives in a government which comprises all of them; and the recognition of the Mayan languages as national languages, together with Spanish. Non-governmental human rights organizations in Guatemala include the Runujel Junam Ethnic Communities Council (CERJ) and CONAVIGUA which, together with CUC, speak for the indigenous majority. Since 1990, a number of other

organizations representing the Mayan people have come into being, namely, the Academy of Mayan Languages (1990), the Council of Mayan Organizations of Guatemala (1991), the Agency for Mayan Unity and Consensus (1993), and the Mayan Defence Organization (1993). This is a measure of the opportunities that have been created for the Mayan people to express themselves within society. However, no such opportunities have been created at the political level.

73. With regard to the representation of the indigenous majority in the management of public affairs, the COPREDEH report, which was prepared before the investiture of the present Congress, states that 8 of the 116 deputies in Congress represent the indigenous population and that 97 of the 330 municipalities are headed by indigenous persons. It also emphasizes that the Minister and First Deputy Minister of Education are of indigenous descent. In the course of the Expert's interviews with Congressional officials, she was informed that, following the parliamentary elections of 14 August 1994, only six members of parliament were of indigenous descent and that they had been elected as representatives of political parties, namely, the Guatemalan Revolutionary Front, led by General Efraín Rios Montt, and the National Advance Party. All of them are members of the Congressional Commission on Indigenous Affairs, and it emerged from the talks on the legislative improvements demanded by the Mayan community that the Commission's decisions will be in line with those of the parties which elected them, which does not conform to the wishes of the Mayans.

74. Under the prevailing Electoral Act, the Mayan people have no opportunity to organize politically. In this connection, the group leaders interviewed by the Expert recalled the experience of the Frente Indígena Nacional, which was set up in 1975 and was unable to register as a party because it was branded as racist, not to mention the persecution and attacks directed at its members. Moreover, the respect for Mayan culture provided for in article 66 of the Constitution has not been translated into legal acceptance of the procedures for electing these communities' own representatives.

75. The impression conveyed at all levels within parliament was that the changes in the law called for in article 70 of the Constitution are not imminent, any more than the ratification of the ILO Indigenous and Tribal Peoples Convention (No. 169). This again leads to the conclusion that, while the law does not actually discriminate against the indigenous majority, it does not protect them either, producing the situation of de facto discrimination referred to in the Expert's preceding report.

76. The report received from the Government states that, by Government Decision No. 435-94 of 20 July 1994, and in accordance with articles 66 to 69 of the Constitution, a Guatemalan Indigenous Development Fund (FODIGUA) was set up to support and reinforce the sustained and self-managed process of human development of the Mayan indigenous people, its communities and organizations within the context of its world vision, in order to improve its quality of life through the implementation and financing of its economic, social and cultural programmes and projects. This is a national decentralized agency with a bipartite structure of government and Mayan organizations, covering the Mayan language areas. Unfortunately, the Expert has no information as yet on the activities of the Fund and is therefore not in a position to comment on its performance.

III. INFORMATION ON THE HUMAN RIGHTS SITUATION IN GUATEMALA

77. During 1993, the Office of the Human Rights Procurator processed 13,339 reports on violations of human rights in general, of which only 2,113 were declared to be within its competence. In 1994, the number of reports received by 31 October totalled 13,431, of which 1,806 were declared to be within the Office's competence. These figures reveal a greater public awareness of the existence of this complaints mechanism, as well as the fact that confusion continues to exist as to what constitutes a human rights violation.

78. Of the 1,806 reports processed by the Office of the Human Rights Procurator up to 31 October 1994, 1,178 concerned civil and political rights, compared with 969 in 1993, and 621 concerned economic, social and cultural rights, compared with 723 in 1993. Seven cases were essentially identical to those included in the above figures, but were submitted by other complainants. These figures show a significant increase over the corresponding figures for the preceding year. Reports concerning civil and political rights received by ODHA totalled 1,543 and those submitted to GAM 1,304. Although these three bodies do not follow the same working methods, some comparisons can be made. For example, the Office of the Human Rights Procurator received 269 reports of extrajudicial executions, while the two non-governmental organizations drew a distinction between murders and extrajudicial deaths. On that basis, ODHA received 320 reports of extrajudicial deaths and 781 of murders, a total of 1,101, a figure which corresponds approximately to that for GAM, which received 117 reports of extrajudicial executions and 929 of murders, a total of 1,046.

A. Civil and political rights

1. Enforced disappearance

79. In her previous report, the Expert noted with concern that various levels of government and some organizations in Guatemala entertained a notion of enforced disappearance which led to confusion of this phenomenon with that of missing persons. With a view to correcting this situation, the national authorities informed the Expert that, in accordance with Ministry of the Interior Directive No. 001/94, the National Police had drawn up and implemented a plan for the tracing of missing persons. The findings published in August 1994 tend to reinforce the conclusion that, of the 671 cases of missing persons reported to the National Police, none was politically motivated and thus none constituted enforced disappearance.

80. By 31 October 1994, the Office of the Human Rights Procurator had declared itself competent in 40 cases of alleged enforced disappearance during the year. In the same period, ODHA received 39 reports and GAM 41 and, up to 30 September 1994, the Centre for Human Rights Research, Study and Promotion (CIEPRODH) had received 30. These figures, which reflect differences in criteria as mentioned earlier, reveal a slight improvement over the preceding year. It should be added that the Working Group on Enforced or Involuntary Disappearances (Commission on Human Rights) recorded 7 cases during 1993 and has 3,006 cases awaiting clarification (E/CN.4/1994/26).

81. While still convinced that the Government of President Ramiro de León Carpio is not promoting a policy of enforced disappearance, the Expert views with concern the occurrence of new cases and the failure to clarify others in which the persons who had disappeared have subsequently reappeared alive. In this connection, it is regrettable that no progress has been made in the investigation of the kidnapping of Maritza Urrutia, Diana Ortíz and Carmen Valenzuela. Nor has any progress been made in investigating the enforced disappearance of Francisco Guarcas Cipriano, a member of the Mutual Support Group, who was deprived of his freedom on 19 October 1993 and whose case was submitted to the Inter-American Commission on Human Rights. Other heads of non-governmental organizations disappeared during 1994. These include Julio Tian and Manuel Xaper, who are members of GAM and subsequently returned alive, and José Sucunú Panjoj, a member of CERG, who disappeared on 29 October 1994 and whose whereabouts are unknown.

82. The case of Efraín Bámaca Velázquez (Comandante Everardo of the ORPA), mentioned in the Expert's previous report, was the subject of extensive political attention in 1994, without any progress being made in clarifying the circumstances. Santiago Cabrera López, a URNG activist who testified before the Commission on Human Rights that he had seen Comandante Everardo alive at the military bases of Santa Ana Berlín and San Juan de Loarca, gave evidence before the Inter-American Commission on Human Rights in connection with a petition alleging the enforced disappearance of 35 members of URNG. Mrs. Jennifer Harbury, who testified to being the wife of Comandante Everardo, staged a long hunger strike outside the Presidential Palace in Guatemala City. In the course of her hunger strike, it was learnt that the Department of State of the United States, the country of which Mrs. Harbury is a national, had received information that Comandante Everardo had been alive when captured and that he had remained alive for a time. The army and the Guatemalan Government, however, have stated that he is dead, without producing or indicating the whereabouts of his body, although in the DIDE document "Threats to the consolidation of the democratic system in Guatemala" reference is made to "Prisoner of war: Everardo". Meanwhile, the Supreme Court, at the request of the Procurator-General, initiated the special verification procedure provided for in article 467 of the Code of Criminal Procedure, entrusting the investigation of the circumstances to the Human Rights Procurator, who is to submit a report in early December, having publicly requested the assistance of MINUGUA on 16 November 1994.

2. Summary executions

83. There are two aspects to the question of summary or extrajudicial executions in Guatemala: the present situation and questions arising out of the discovery of secret graveyards in the 1980s. With regard to the current situation, the Office of the Human Rights Procurator received 269 reports up to 31 October 1994, compared with the 196 recorded in 1993. ODHA submitted 320 cases and GAM 117 during the same period, while CIEPRODH had received 253 reports up to 30 September 1994. Furthermore, the Commission on Human Rights Special Rapporteur on extrajudicial, summary or arbitrary executions submitted reports on 220 cases to the Government in 1993 and made 25 urgent appeals concerning death threats (E/CN.4/1994/7).

84. One of the most notorious cases of extrajudicial execution is that of Epaminondas González Dubón, President of the Constitutionality Court, who died on 1 April 1994, two days after the signing of the Comprehensive Agreement on Human Rights by the Government and URNG. Because of the threats he received in the days before his death, the matters he was dealing with in the Constitutionality Court and his firm stance on the occasion of former President Serrano's coup in 1993, his family, together with the non-governmental community and the Expert, regard the matter as an extrajudicial execution; however, the line being pursued in the investigation is that it was an ordinary crime. Unfortunately, a judicial ruling to put an end to this difference of opinion is slow in coming. In May, Leonel Geovanny Reyes (or Herrera Reyes), Abimael Samayoa Corado, Alfredo Santos López, Aura Marina Rodriguez Cardozo and Axel Daniel Salazar López were brought before the Second Criminal Investigation Court of First Instance. The case was then referred to the Fifth Court which, on 9 May, overturned the committal order for lack of evidence against the five accused. On 18 May, the Fifth Court tried two brothers, Mario and Oliver Salazar, for the offences of aggravated theft and homicide.

85. Again in April 1994, the extrajudicial execution was announced of Mariano Pérez, the former coordinator of catechists in the village of Santo Domingo, municipality of Sayaxche, department of Petén. About 30 soldiers with blackened faces arrived in the village, which comprises 45 families belonging to the Kekchí ethnic group. Mariano Pérez was taken from his home by force and shot while attempting to escape. Three days later, a body fitting his physical description was found with the mouth badly mutilated and the hair removed. These events took place in a climate in which the public was divided in its support for the army and URNG and, according to the information provided by an army officer, two months after the village headman had read out a communication accusing a number of catechists of guerrilla activities.

86. The constant discovery of secret graves has served to remind Guatemalan society of the summary executions committed during the 1980s. In her previous report, the Expert described the discovery of a secret graveyard in the village of Río Negro, in the municipality of Rabinal, department of Baja Verapaz, in which were found the skeletal remains of 177 women and children. During this year's mission to Guatemala, the Expert visited Rabinal and had an opportunity in Pacux to interview survivors and relatives of the victims of Río Negro village, who told her that army personnel and members of the PACs of the nearby village of Xococ had taken part in the massacre of September 1981.

87. While the discovery of the Río Negro graveyard and the start of the exhumations enabled the survivors to speak out for the first time about events on which they had remained silent for years, this also marked the beginning of a period of harassment. For example, on 20 July 1994, a number of army officers arrived in Pacux to find out who was behind the exhumations and, three days later, the villagers were summoned to the military post in Rabinal by the second-in-command of Salamá, who harangued them, saying that those behind the exhumations were guerrillas. At about the same time, the Military Commissioner of Las Vegas de Santo Domingo was murdered, after making public his intention to tell everything he knew about the massacres of the 1980s.

On 3 August, the Human Rights Procurator reported that the peasants of Baja Verapaz had been threatened by the Commander of the military zone of Salamá for supporting the exhumation of bodies.

88. In March 1994, eight further skeletons were found in the previously discovered secret graveyard in the grounds of Casa Alianza. On 26 March 1994, the Human Rights Office of the Archdiocese, at the request of the Apostolic Vicariate of Petén, received a report of a secret graveyard on a plot of land known as "Las dos Erres". Two days later, three groups of skeletons were found there: (a) a group of about 40 skeletons of men, women and children lying on the ground in the open; (b) another 35 male and female skeletons covered by undergrowth; and (c) a third group of an unspecified number of skeletons of both sexes, including children, in a deep well, together with clothing and children's toys. In July, the Guatemalan Association of Relatives of Missing Detainees (FAMDEGUA) reported that the Argentine forensic anthropology team working on the site had been subjected to intimidation. The team returned to the capital at the end of July.

89. On 3 June 1994, municipal workers discovered a secret graveyard in the main square of the village of Pequip, in Tecpan, Chimaltenango, containing the remains of five persons who were identified by their relatives living there as indigenous peasants who had been missing since December 1982. They were Rolando Cobox, Miguel Ajquí, Juan Ortiz Morales, Francisco Suy Cobox and Tomás Macario.

90. During the second half of the year, the discovery of further secret graveyards revealed the extent of the policy of wholesale destruction pursued by General Ríos Montt in 1982. However, this did not keep him from victory in the parliamentary elections of 14 August. During her meeting with the returnees in Cuarto Pueblo on 20 November 1994, the Expert ascertained the existence of skeletal remains buried following the massacre of the 1980s, when the population had been herded into the church, which was then set on fire.

3. Torture and other cruel, inhuman or degrading treatment

91. As at 31 October 1994, the Office of the Human Rights Procurator had received 8 reports alleging torture, compared with 34 received during the previous year. ODHA had received 17. On 15 April 1994, the Special Rapporteur on the question of torture appointed by the Commission on Human Rights asked the Government for information on the case of Gilberto Moral Caañ, a trade-union member arrested by the army in Alta Verapaz 10 days earlier. In his report to the Commission on Human Rights, the Special Rapporteur on the question of torture reported on the cases brought to the attention of the Government in 1993 (E/CN.4/1994/31).

92. At the beginning of the year, Mario Polanco, the head of GAM, was abducted and tortured, before being released. Another case of torture reported during the year was that of the journalist Edwin Quezada Barquero. On 15 July 1994, he was abducted and tortured by a group of armed men in civilian clothes who forced him into the boot of a car and was taken for a drive lasting about 20 minutes. The men, who were masked, questioned him about the information contained in his articles of 7 June ("Shoot-out between Financial and National Police at airport"), of 5 July ("Prosecutor has doubts

about plan to kill De Léon Carpio") and 14 July ("Human Rights Procurator criticizes inefficiency of security forces"). Throughout the interrogation, he was savagely beaten. Threats were also made against him and his family. After being released the following morning, he had to be hospitalized. He and his family were later threatened by telephone and anonymous letters.

4. Threats

93. As at 31 October 1994, the Office of the Human Rights Procurator had received 193 reports of threats, compared with 182 in 1993; ODHA recorded 180 in the same period.

94. In January 1994, following the fire at the Santa Cruz del Quiché court, General Vásquez, the Commander of Military Zone No. 20, said that "the guerrillas perhaps wished to destroy the records relating to Amílcar Méndez", referring to the CERJ leader. In March, the "National Anti-Communist Committee" issued a hit-list containing the names of the journalists Haroldo Sánchez and Carmen Aída Ibarra and of the editor of Siglo XXI, José Rubén Zamora, giving them an ultimatum to leave the country or be killed. On 28 July 1994, the spokesman for DIDE, Colonel Morris de León, said that Rosalina Tuyuc, the President of CONAVIGUA, was known by the alias of "Julia" in the insurgency movement and that her brothers, Juan Francisco and Vicente Tuyuc, were Frente Unitario combatants specialized in demolishing bridges and collecting "war taxes". In August, notes signed by "Jaguar Justiciero" began to appear announcing decisions to execute various prominent individuals. In September, Judge María Eugenia Villaseñor Velarde received anonymous threats designed to make her leave the country. After these threats were made public, an anonymous letter was addressed to the magistrates of the appeals divisions referring to alleged secret interests of the judge, mentioning her daughter and her relations with Helen Mack and urging them to pay no attention to what she said.

95. In the first half of November, there appeared a two-page document entitled "To the people of Guatemala (first communiqué)", signed by the "Anti-Communist Patriotic Union". The document began by stating: "We are amazed to see how the members of URNG, disguised as popular groups, under the cloak of human rights and taking as their banner the increase in the cost of transport, electricity and the basic food-basket, have blatantly taken over the Government, and are controlling the urban population and undermining public confidence in the authorities, particularly the army, which is waging a victorious battle against armed insurgency, (but) is losing the psychological war of attrition being waged by URNG at the urban and national levels". The document goes on to describe Jennifer Harbury, Karen Fisher Pivaral de Carpio, Otto Morán, Hugo Arce, Danilo Rodriguez, Helen Mack, Nineth Montenegro and Haroldo Sánchez as "shady characters".

96. These threats and other acts reported to the Expert by human rights activists, trade unionists, journalists and university students are clear evidence of widespread campaigns to intimidate the public at large. There is even some evidence of a timetable. For example, in May the target was non-governmental organizations assisting refugees and returnees; in June and July, human rights activists; in August and September, judges; in November, human rights activists again. Clearly, the campaigns against prominent

individuals are designed to isolate them from society, while the attacks on organized movements within society are designed to frighten them into giving up. In general, appeals are made to nationalism, with a view to demobilizing society.

5. Police repression

97. The police have been accused of excesses in the performance of their duty to maintain law and order. One of the alleged abuses of authority took place on 24 August 1994 on the San Juan del Horizonte estate (Coatepeque, Quetzaltenango). The application to the courts for payment of the minimum wage of 11.2 quetzals, instead of the 6 quetzales actually received by workers, resulted in dozens of dismissals. Five months later, on 18 July 1994, when their demands had met with no response, the workers decided to hold a sit-in on the estate in order to bring pressure on the management, which unexpectedly reacted by bringing criminal charges, leading to the issuance of 110 arrest warrants. On 24 August 1994, a 215-man anti-riot squad attempted to persuade the workers to surrender. When this did not work, they broke down the main gate with a tractor and set out to take the estate by force, killing two workers, Basilio Guzmán Juárez and Efraín Recinos Gómez, in the process. A third victim, Diego Orozco, was found dead the following day 60 km away. The Expert spoke with workers and witnesses of the events on 19 November 1994 in Coatepeque. She also discussed the events with the Minister of the Interior and the Director of the National Police.

98. On 11 November 1994, Mario Alioto López Sánchez, a student, was killed in the vicinity of the University of San Carlos in Guatemala City. After a week of disturbances following the announcement of an increase in transport fares, the transport operators decided not to go ahead with the increase. On Thursday 10 November, a number of students were fired on from a vehicle and three of them, Mario Mazariegos Say, Guillermo Fernández and Erick Mijangos were wounded. A number of helicopters also flew over the university campus. Following the events of the previous day, a protest march was held in the afternoon in the Avenida Petapa, bordering the campus. In the course of the march, shots were fired from a moving van at the demonstrators, who were forced to retreat towards the campus for protection. The police had already taken up positions inside the campus. The student Mario Alioto López Sánchez, who was also reported to have been badly beaten by members of the police, was hit in the resulting cross-fire and died a few hours later.

99. The Expert spoke with the Association of University Students, the Rector and Governing Council of the University of San Carlos, and the governmental authorities responsible for security. On 21 November 1994, the Office of the Human Rights Procurator declared that Mario Alioto López Sánchez' right to life and physical integrity had been violated, together with the right to physical integrity of students and other persons who had been subjected to cruel and inhuman treatment by the security forces, in particular the National Police, and had sustained gunshot wounds.

100. In both cases, there is every reason to believe that the use of force by the police was excessive. The government position was that, in both cases, workers and demonstrators had committed unlawful acts. In both cases, such a finding was for the courts, not the police, to make.

6. Forcible recruitment into the armed forces

101. The Office of the Human Rights Procurator recorded 298 reports of forced military service in the period up to 31 October 1994, compared with 174 processed during the whole of 1993. Between January and June 1994, ODHA lodged 64 applications for writs of habeas corpus in cases of forced military service. These figures show the extent of the phenomenon during the first half of the year.

102. The form of forced military service practised in Guatemala, as stated in the Expert's previous report, is discriminatory and illegal. This view is shared by the Inter-American Commission on Human Rights which, in its report 36/93 on case No. 10,975 issued in March 1994, found that the Government of Guatemala "has not yet taken the measures necessary to put an end to forced military service and has not complied with the relevant legal requirements to put an end to recruitment practices which discriminate against persons and/or sectors of the Guatemalan population".

103. On 16 May, on the initiative of CONAVIGUA, between 5,000 and 10,000 peasants from Sololá, Totonicapán, Quiché, Huehuetenango, Quetzaltenango, Salamá, Izabal and the southern coast took part in a protest march against forced military service. Towards the end of the month, the local press drew attention to numerous reports of "round-ups" for the recruitment of conscripts in the departments of Quetzaltenango, Chimaltenango, Santa Rosa and Sacatepéquez, in the course of which a number of people had been injured. On 28 and 29 May 1994, military personnel in Quetzaltenango and Cuyotenango carried out a large-scale forcible recruitment operation in the municipalities in the southern coastal region. The same is reported to have happened on 4 and 5 May 1994. On 6 June, military personnel carried out a forcible recruitment operation in the settlements of San Luis, La Leyenda and Las Vías in the municipality of San Pedro Ayampuc. The group included minors.

104. On 9 June 1994, following continuing reports of forcible recruitment, ODHA requested the Government to put an end to such recruitment practices, identify those responsible and consider the bill submitted to Congress. Also in this connection, in a decision of 14 July 1994, the Human Rights Procurator declared that the persons concerned had suffered violations of the fundamental guarantees of integrity, security, freedom and equality, freedom of action, and civil and political rights and duties, and demanded that the authorities conform to the legal procedures in force for military recruitment.

105. On 30 June 1994, in his statement on the occasion of Army Day, President Ramiro de León Carpio referred to the reform of the army in a climate of peace and said: "This question is very closely linked with the constitutional duty to perform military and social service and, within that, the question of military recruitment. A law now under consideration will, in the first instance, require the performance of military service as a constitutional duty and right. However, such service must not be forced or in violation of human rights; it must be inclusive and non-discriminatory, the period of service must be considerably reduced and opportunities must be afforded to young men who wished to enlist in the army. I declare this draft

legislation to be an urgent matter, and until it comes into force I order that recruits shall be volunteers only and that the legal exceptions, as in the case of minors and others specified by law, shall be respected".

106. The political decision announced by the President of the Republic put an end to this phenomenon as of the second half of the year. It is to be hoped that the legislature will soon pass new legislation on the question. It already has before it a bill drafted by the Ministry of Defence and another submitted by CONAVIGUA on 23 August 1994.

7. Activities of the Civilian Self-Defence Patrols (PACs)

107. In her previous report, the Expert came out decisively in favour of the disbanding of the PACs and recommended that, pending the adoption of the necessary legislative and administrative measures, the Government should not create further PAC posts, that the army should undertake to control existing PACs, disarm PACs which the Office of the Human Rights Procurator and the courts had found to be guilty of excesses (Colotenango, Joyabaj, San Pedro Jocopilas), disband the PACs in areas in which there was no armed conflict and assign to the Office of the Human Rights Procurator the task of setting up and implementing permanent machinery to ascertain regularly that their members were volunteers.

108. On 17 January 1994, President Ramiro de León Carpio wrote to President Bill Clinton of the United States of America informing him that "as a demonstration of political will, our policy in 1994 will be to review and ascertain the need for civilian self-defence patrols. These must operate only in areas where their presence is essential and they must be organized to serve as a basis for the operation of development committees".

109. In the period covered by this report, the authorities informed the Expert that no new PACs had been formed and that the number of patrol members had fallen from 537,000 to 376,000. None of the other recommendations was adopted, despite the presentation made by the Human Rights Procuarator, Mr. Jorge Mario García Laguardia to the then Chairman of the Human Rights Commission of the Chamber of Deputies, Mr. Oliverio García Rodas, on 23 February 1994, concerning the repeal of Decree No. 19-86 authorizing the operations of PACs. The statement of the European Parliament expressing concern at the continued existence of PACs, contrary to the recommendations of the Expert and the Inter-American Commission on Human Rights, was also disregarded. In explaining its position, the Government said that, under the Comprehensive Agreement on Human Rights, it had been agreed that the question of the PACs would be dealt with later in the negotiations and that the continued existence of areas of conflict indicated that the recommendation had not been, and would not be, complied with. It was also explained that the PACs formed the basis of the social structure of Guatemala and that there was no apparent reason to disband them.

110. While understanding that, under the rule of law, the monopoly of force must reside in the hands of a responsible State agency, as was explained to her, the Expert appreciates that the argument for the continued existence of the PACs is based on the counter-insurgency and intelligence operations which

they carry out in connection with the armed conflict. However, the reports linking the PACs with acts involving violations of human rights refer to its operations within Guatemalan society itself.

111. Early in 1994, first CUC and then ODHA named the PACs as responsible for the extrajudicial execution of Jorge Carpio Nicolle. In February, CUC reported that peasants who refused to join the patrols were persecuted. In that connection, it reported the disappearance of Mario Gabriel López, a former member of the PACs and currently a member of CUC, and of Candelario Batán, a former member of the PACs, and announced that Santos Mejía, a military officer, had ordered the destruction of Mr. Batán's home because he was a "guerrilla".

112. In San Pedro Jocopilas, where the PACs were reported to have committed a number of excesses in 1993, further abuses occurred at the beginning of 1994. In January, for example, in Chuwitzalic canton, patrol members forced villagers to produce proof of residence in order to pass through the area, under threat of being taken to the military post. In February, they forced the local residents, again under threat, to sign a document rejecting persons working in grass-roots and human rights organizations and violently ill-treated anyone refusing to join the patrols.

113. In March 1994, GAM reported the imposition of a "state of siege" by the PACs of Xalbaquiej, Chichicastenango. In addition, CERJ reported that 60 PAC members had raided the village of Xalbil, in Cunén, searched houses, stolen money and valuables, and raped a 14-year-old girl. Human Rights Watch/Americas visited the area of Nebaj, El Quiché, in March 1994, where the PACs had been transformed into Peace and Development Committees, and although the patrol members had been instructed to use the new name, there was no apparent difference in their activities. It is still the army which provides them with weapons and gives them their orders. For example, in February 1994, the commander of the military post in Nebaj ordered patrol members to keep a close watch on the activities of the Catholic Church in their respective villages and to report to the army.

114. On 1 April 1994, ODHA reported that Pedro Ixcoy Julaj, a peasant, had been threatened by the PACs in the canton of Chiticur Primero, San Pedro Jocopilas. That same month, Amnesty International issued an urgent report concerning the threats made against Pedro Bop Caba, Pedro de León Corio, Pedro Bop del Barrio (a minor) and Camilo Bernal Morales by the PACs in Chel, Chajul.

115. On 27 May, CONAVIGUA and CUC complained to the Supreme Court that pressure was being exerted by the military commander of Huehuetenango on the judge hearing the case concerning the events at Colotenango and had led to the order for the release of two detained PAC members. Moreover, two of the Colotenango witnesses, Arturo Méndez and Alfonso Morales, both leading members of CUC, were arrested and charged with the murder of a PAC commander on 15 September 1993. CUC considers them to be political prisoners.

116. GAM reported that on 23 June 1994, Tomás Patzay Calel, Santos Patzay Calel and Fausto Patzay Chom, all minors, had been kidnapped by Sebastián Tol Felipe, Juan Cun Ventura, Diego Ajpop Mejía and Raúl Cente Ventura, leaders of

the PACs in the villages of Saquilla II, Pachoj, Xalbalquiej and Xepacoj respectively. The children were taken for military service, but have been missing ever since. Following judicial proceedings instituted by GAM, the first three culprits were arrested but the two others are still at large. On 24 June 1994, the Human Rights Procurator found that the local PACs were directly responsible for the deaths of José Ramos Baten Santos, Enrique Pu López, María Lux, Ramón Tojin Lux and six unidentified persons, which had occurred before 1 May 1994 in San Pedro Jocopilas.

117. On 2 September 1994, Juan Ortíz was murdered at his home in the village of Las Casas, municipality of San Andrés Sajcabá. In open proceedings in El Quiché court, charges were laid against Pedro de León Coxaj, a former PAC member. On 5 October 1994, José Lindo Calel, who had left the PACs in the canton of Chumanzana, municipality of Chichicastenango, was harassed and subjected to death threats by members of the cantonal PAC. On 3 November 1994, a youth named Pedro Saquic Suy was stabbed to death in the canton of Chuzorop II, municipality of Chichicastenango. José Morales y Morales, Augusto Ajanel Morales and Tomás Ajanel Saquic were charged with the crime. The members of the PACs presented petitions defending the position of the alleged murderers.

8. Right to trial and due legal process

118. Guatemala has significantly altered its system of administration of justice, particularly in the criminal sphere, with the entry into force of the Code of Criminal Procedure and the adoption of a new Act on the organization of the Public Prosecutor's Office. In October 1994 a new Supreme Court of Justice was elected, presided over by Judge Oscar Barrios Castillo, who has pursued a policy of rationalization; in practice this has undermined the independence of the Judiciary. On grounds of combating corruption in the administration of justice, the Supreme Court has dismissed 10 judges and ordered the transfer of over 60. The President of the Supreme Court told the Expert that the transfers were required in order to break up deeply entrenched professional cliques that impeded the proper administration of justice. Regarding the transfers of a number of magistrates who had shown a deep commitment to the human rights investigations, the President of the Supreme Court explained that they had been transferred for their own security as they were under threat.

119. While it is true that the judicial system is in dire financial straits, the Supreme Court has so far shown no determination to carry out a genuine transformation of the system of administration of justice by adopting the measures necessary to adapt its infrastructure and approach to the new legislation. In this regard, the view was expressed that the introduction of the new legislation relating to criminal procedure was premature; because of its shortcomings that legislation needed to be amended so that it could be put into effect, and considerable infrastructure work and numerous personnel would also be needed.

120. The security of judges is a source of concern. On 3 February 1994, the judge presiding over No. 2 Court of Investigation in Chimaltenango, Yolanda Pérez Ruiz, was prevented by officers and men from Chimaltenango military base from enforcing a writ of habeas corpus. Five days later, an article entitled

"Legal action taken for dismissal of judge" appeared in the press, giving a distorted account of the incident. The judge then began to be followed and to receive anonymous phone calls in which she was threatened with abduction. On 21 February 1994 she was informed of her transfer to a court in Chiquimula against which, she successfully appealed. In September preliminary proceedings for judicial misconduct were brought against her, as a result of which she was dismissed. On 20 September the charges against her were dropped for lack of evidence.

121. On 20 August 1994, Edgar Ramiro Elías Ogaldez, a judge of No. 1 Court of First Instance in Chimaltenango was shot several times and killed in the vicinity of the Faculty of Agronomy of San Carlos University. Mrs. Telma Ortiz de Sagastume, who had been working as secretary for No. 2 Magistrates Court in Mixco, where Ogaldez had been a judge for eight years, was also seriously wounded in the attack. According to eye-witness accounts, the murderers were lying in wait for Ogaldez; when they had shot him, they got into a car which had been seen some days previously driving around the court district.

122. The section of this report entitled "Threats" contains an account of the harassment of María Eugenia Villaseñor, a judge of No. 3 Court of Appeal in Guatemala City, who was transferred by the judicial authorities to the town of Antigua Guatemala.

123. The Public Department of Legal Aid in Criminal Matters is an institution which comes under the administrative authority of the Supreme Court of Justice and was established by the Code of Criminal Procedure. It began operating on 1 July 1994. It was set up shortly before that date and is currently suffering from an excessive workload attributable to the small number of lawyers in its service, as it fails to make use of the possibility provided by the Code to call in lawyers from the bar. The President of the Judiciary estimates that it requires a further 70 defence lawyers.

124. Progress in prominent cases, whose conclusion would indicate an improvement in the administration of justice, is slow. Investigations into the summary execution of Jorge Carpio Nicolle, leader of the UCN and a first cousin of the President of the Republic, opened up a number of trails that proved of no avail in clarifying what had happened. On 19 January, the files of three courts in Santa Cruz del Quiché, one of which contained the case records, were destroyed by fire. On 19 February, the Government announced the establishment of a multi-sectoral investigating committee made up of representatives of the Government, the army, the Archdiocesan Human Rights Office, the Office of the Human Rights Procurator and the Carpio family. In mid-April, the Secretary-General of the President's Office, Luna Tróccoli, stated that the Commission would convene within a fortnight; however, according to information received by the Expert, it has not yet done so.

125. At the beginning of June, the local press prominently reported the arrest of three suspects, all of whom were at the time members of the Christian Democrats: Carlos López, former Governor of Quiché, Pedro Chaperon, mayor of San Pedro Jocopilas, and Francisco Ixcoy, former mayor of San Pedro Jocopilas and head of the local PACs. On the day of their arrest it was reported that the PACs in San Pedro Jocopilas had interrupted Sunday mass and threatened the

priest. On 6 June, the judge investigating the case released two detainees, Carlos Enrique López and Juan Gómez Lucas, for lack of evidence. During the second half of the year, Jorge Carpio's daughter-in-law, Karen Fischer de Carpio, had to leave Guatemala because of threats she had received from a high-ranking military officer. A request for protective measures for her and for other witnesses in the case was made to the Inter-American Commission on Human Rights, which is hearing the application concerning the Carpio case. In November, high-ranking civilian officials and military officers were heard in connection with the case. The President of the Republic was heard at his official residence, while the Deputy Minister of the Interior chose to submit a written statement. Hearings were also held at military base No. 20 in El Quiché.

126. There were new developments during the year in the exemplary case of the extrajudicial execution of the anthropologist Myrna Mack Chang. In February, the Supreme Court of Justice handed down a final judgement on the applications for judicial review lodged against the judgement at second instance, whereby Noel de Jesús Beteta was sentenced to 30 years' imprisonment for homicide, and found in favour of the application lodged by the plaintiff, Helen Mack Chang. It ordered the initiation of a judicial investigation of the alleged instigators of the crime, Edgar Augusto Godoy Gaitán, Juan Valencia Osorio and Juan Guillermo Oliva Carrera, all members of the army, police officers Juan José Larios and Juan José del Cid, and an individual with the family name of Charchal. The three soldiers involved lodged an application for amparo against this decision with the Constitutionality Court. On 18 March 1994, Helen Mack applied for protective measures to the Supreme Court of Justice and requested it to apply to the Government for the file on Myrna Mack which was allegedly held on army premises. On 21 March, the President of the Republic stated that the Minister of Defence had been ordered to take that action and had found that there was no such file. Consequently, the Supreme Court turned down the application on the grounds, inter alia, that the file was in the hands of the Constitutionality Court. In April, the latter Court decreed an eight-day period during which it would hear evidence relating to the amparo application made by the military personnel. On 25 May the newspaper Siglo XXI published an interview with General Godoy Gaitán in which he said, inter alia, that Beteta had been convicted only on circumstantial evidence and that the plaintiff "wants to see a general hang to satisfy her thirst for revenge". He further stated that "when the crime (Myrna Mack's murder) occurred, President Cerezo was on the Santo Tomás estate, where he was informed that there had been a murder ... In Guatemala, murders are a daily occurrence".

127. The military authorities took a number of steps to bring military personnel involved in crimes before the courts. On 19 April 1994, the army confirmed that proceedings had been initiated against an EMP specialist accused of kidnapping a boy at gunpoint. This statement was followed by further statements by the Minister of Defence in which he said that any soldier who committed an offence would be tried. On 7 June, the head of the Airport Financial Police was arrested in connection with the unlawful importation of electronic appliances.

128. Regarding the Public Prosecutor's Office, the basic measure adopted has been to divide the functions previously performed by Procurator-General Teófilo Guerra Cahn into a post of Procurator-General, to which

Acisclo Valladares was appointed (he had previously occupied the post of Procurator-General), and a post of Attorney-General, to which Ramsés Cuestas was appointed.

129. Decree No. 40-94 (Public Prosecutor's Office Organization Act) stipulates that the Office is an autonomous institution that undertakes criminal prosecution and directs investigations into publicly actionable offences. It also oversees strict observance of Guatemalan laws. The Act further stipulates that, in discharging its task, the Public Prosecutor's Office shall endeavour to ensure justice, shall act objectively, impartially and in compliance with the principle of legality, and shall take orders from no State agency or authority whatsoever. In order to discharge his task, the Public Prosecutor may request the cooperation of any civil servant and administrative authority belonging to the State's institutions and its decentralized, autonomous or semi-autonomous bodies. The Attorney-General may receive governmental instructions in writing from the President on measures to combat crime. In view of his autonomous status, he may refuse to accept them in a substantiated written reply. In the event of disagreement between them, the dispute is settled by Congress.

130. Although the Public Prosecutor's Office was recently reorganized, its backlog of work is none the less disturbing, as is the fact that it has not yet attempted to reorganize its human resources in order to improve its performance. Nor has a policy for the criminal prosecution of human rights violations been laid down, or any policy to establish smooth relations with the police and other security forces in order to improve the efficiency of investigations which the Code of Criminal Procedure entrusts to the Public Prosecutor's Office.

131. The Office is beset by the same security problems as those affecting judges. In the night of 25 November 1994 shots were fired at the car of Prosecutor Abraham Méndez García, who was working on a case and had told the Expert three days before that he was under threat. In addition, Prosecutor Elizabeth Valdés Orellana de Zetina, who from her office in Amatitlán is investigating, inter alia, cases of drug trafficking in which elements of the security forces may be involved, has been threatened.

132. The Procurator-General represents the State in civil litigation and advises and acts as a consultant to State agencies; his opinions are not binding. His functions are currently governed by article 252 of the Constitution and by legislation dating from 1948. According to information given by the Procurator-General to the Expert, his opinions and actions have related to virtually all the affairs that were troubling Guatemala at the time of the mission.

133. As regards substantive criminal law, it should be mentioned that on 27 April 1994 Congress adopted Decree No. 38-94, whereby the death penalty was extended to kidnappers of minors and persons aged over 60, in clear violation of article 4, paragraph 2, of the American Convention on Human Rights. The non-governmental organization Human Rights Watch/Americas called on the President to exercise his veto. President Ramiro de León Carpio acknowledged that the American Convention was an obstacle to implementation of the Decree but did not exercise his veto. Regarding criminal legislation, it

should be recalled that current Guatemalan legislation does not characterize the offences of torture, extrajudicial execution or enforced disappearance of persons.

9. Prison system

134. According to the information given to the Expert by the Director-General of the Prison System, there are 14 establishments in Guatemala for prisoners awaiting trial and convicted prisoners, in addition to a further 20 public jails administered by the police which hold only prisoners awaiting trial. The total prison population is approximately 6,000, of whom 2,500 are held in premises run by the Prison Service, which possesses a staff of 1,100 responsible for registration, security and administration.

135. In her previous report, the Expert highlighted the deficiencies of the prison system, and especially its shortcomings as regards a legal framework, regulations and properly trained personnel. Accordingly, on the first point, she recommended that internal regulations in conformity with the principles of the Code of Conduct for Law Enforcement Officials and the Standard Minimum Rules for the Treatment of Prisoners should be adopted. In the document on follow-up of the recommendations, prepared by the Government, it is argued that there is a need not for a prison service organization act, but merely for regulations. In this respect, it has been pointed out that the Regulations for Detention Centres in the Republic of Guatemala, adopted by Governmental Decision No. 975-84, and the Regulations of the Directorate-General for the Prison System, approved by Governmental Decision No. 607-88, are in force. The fact that there is no single set of regulations and the absence of legislative authority for the regulations, a situation which may only be modified by a legal act adopted by Congress, leads to extremely inequitable treatment. Thus, there is no system whereby petitions may be filed on behalf of detainees, nor is there a uniform regime for disciplinary measures or a system of work geared to reintegration into society.

136. The situation in Guatemala's prisons in 1994 provided more than enough evidence of the need for reform mentioned above. The series of unusually violent riots, which led to loss of life, make it essential rapidly to adopt corrective measures. In January 1994 riots broke out at the Pavón-Fraijanes Rehabilitation Farm and at the Santa Teresa women's detention centre in Guatemala City and at the women's detention centre in Escuintla. Isabel Guevara Morales, a detainee, was murdered on 17 January at the rehabilitation farm. The explanations given by Mr. Mauricio Gutiérrez, the then director of the establishment, drew attention to the lack of adequate means to supervise the prison population: 23 warders on each shift for 486 prisoners. On 22 January, 100 women prisoners in Santa Teresa rioted in protest against the poor quality of their food. On the following day, 10 women prisoners in Escuintla attempted to escape.

137. In April 1994 the women's prison in Escuintla was once again the scene of disturbances. Thirty-five prisoners rioted and 2 of them were injured, as were 2 of the 15 children living there with their mothers. According to the authorities, the incident was sparked off by a refusal to allow the father of one of the prisoners to enter the prison outside visiting hours; the rioters complained of delays to their trials and the poor quality of their food. The

police identified Magda Hernández, Teresa Morales Gutiérrez, Wendy Esperanza Arriola Morales, "Estrella" and "Virginia" as the leaders of the riot. Estrellita was released during the year and her body was later found in the town.

138. In May two prisoners in Pavón prison, Cándido Pelén Fuentes and Herbert Geovanni Castañeda, met violent deaths. The Government appointed Jorge Mario Castillo Rodas as the new governor. On 7 July, at the Canada rehabilitation farm in Escuintla, a prisoner, José Eduardo Hernández Martínez, was alleged to have detonated a fragmentation grenade which wounded nine prisoners. On 18 July, the Human Rights Procurator stated that the authorities were responsible for the incident. He further said that "an appeal must be made to the Minister of the Interior and to the prison authorities to plan programmes to improve security in Guatemala's prisons so as to avert a repetition of incidents such as that which occurred within the Canada rehabilitation farm in Escuintla, incidents which gravely jeopardize the safety, physical integrity and even lives of detainees, or those who work there or visit these places every day for various reasons".

139. On 24 November 1994, the Expert visited Santa Teresa women's prison and held discussions with the authorities and prisoners. The prison holds 130 prisoners aged over 18 who are awaiting trial; 10 of them live with their children, 11 in total, who are aged under two and a half. The prison personnel comprise 55 administrative employees, 35 perimeter guards and 20 warders who work on 2 shifts of 10 every 24 hours. The Expert was told that the prison has five doctors, two nurses and two dentists. Work is voluntary, since it is only mandatory for convicted prisoners. She was further told that the prisoners' work involves removing thread from garments, of which they handle about three bales a day; they are paid six quetzales a day, and take courses in cutting and dressmaking or work in the handicraft section.

140. The prisoners are responsible for looking after the premises, which are generally clean. The authorities said that the daily meal is decided by a team of housekeepers. Men and women have different visiting hours and there is no provision for private visits. The lightest form of punishment is transfer from the collective blocks to "sector 10", an identical block where living conditions are harsher; the most serious form of punishment is solitary confinement in individual cells with a toilet known as "bartolinos".

10. Freedom of association

141. Guatemala's Constitution specifically recognizes freedom of association. Furthermore, Governmental Decision No. 515-93, dated 6 October 1993, was intended to expedite the procedures for the recognition and registration of associations. In this connection, the Minister of the Interior provided the Expert with documents showing that in 1994 numerous associations of various kinds had been registered: professional associations, development associations and religious associations. In such circumstances, it is difficult to understand why the authorities took 10 years to authorize registration of the non-governmental organization International Peace Brigades.

11. Freedom of expression

142. As has been pointed out elsewhere in this report, journalists and other media professionals have suffered particular harassment in 1994. On 22 March 1994, the Human Rights Procurator issued a finding concerning the violation of the rights freely to express one's opinion and to freedom of opinion in the case of 11 journalists belonging to various media who had been intimidated and threatened.

143. The journalists interviewed by the Expert said that, although freedom of expression does exist in Guatemala, journalism is a high-risk profession, particularly as regards "highly sensitive" topics such as drug trafficking, corruption, domestic armed conflict and some of the most prominent court cases. They also said that the threats they received led to a form of self-censorship, as a result of which it was virtually impossible to carry out investigative journalism.

144. As regards direct action, on 28 April 1994 the facade of the La República newspaper building was machine-gunned, as were the buildings of the magazine Tinamit in June and the Guatamalan Journalists' Association in August. The journalists Edwin Quezada Barquero and Héctor Adolfo Barrera Ortíz were also attacked.

B. Economic, social and cultural rights

1. Right to decent and equitable working conditions

145. In Guatemala, minimum wages are established by sector. The Minister of Labour informed the Expert that pay rises had come into force on 20 October 1994 in the following sectors: daily-wage agricultural labour; services, commerce and industry; building; bakery, biscuit-making and confectionery. In addition, journalists' monthly wages rose on 30 November.

146. As to the incidents of 24 August 1994 on the San Juan del Horizonte estate, Coatepeque municipality (Quetzaltenango), during which police were used to break up a demonstration by workers calling for payment of the minimum wage and other legal benefits, the Ministry of Labour acknowledged that the minimum wage was not being paid. According to official estimates, about 95 per cent of the minimum wage is paid in the southern coastal region and 70 per cent in San Marcos, while in the north "the extent to which employers fail to comply with the minimum wage is alarming". In one way or another, these failures to pay the minimum wage, in respect of which the courts are incapable of taking a timely decision, have led to numerous peaceful occupations of estates. These incidents are misrepresented as an attempt to deprive owners of their land, although the former recognize that the issue involves workers' demands. As of 3 August 1994 there were only seven labour tribunals in the whole country.

147. The Expert was told that, in order to deal with this situation, the Ministry of Labour is being regionalized. It was stated that as part of this process Labour Inspectorate offices have been opened in Quiché, Totonicapán, San Marcos, Petén, Tetucumán and Antigua, and that one will shortly be opened in Jutiapa.

148. As far as the most vulnerable groups are concerned, the Expert was told that the Child Workers Unit ensures that the maximum legal working day of 6 hours for children aged between 12 and 14, and 7 hours for children over 14 is observed, as well as the obligation to study. The National Women's Office has implemented an outreach campaign concerning women's labour rights. It was further stated that there are projects for the disabled.

2. Trade union rights

149. It is possible to engage in trade union activity in Guatemala, although this entails great risks. In some sectors attempts are made to discourage workers from exercising trade union rights by means of mass dismissals. For example, the Guatemalan General Labour Confederation, to which 84,000 workers in various sectors belong, reported 300 dismissals on estates in the interior of the country and said that it had received threats from "Jaguar Justiciero". Similar incidents were reported by the representatives of the Trade Union and Grass-roots Action Unit and of specific unions. In this connection, the Office of the Human Rights Procurator had received 27 complaints concerning trade union rights as of 31 October 1994, 4 more than in the whole of 1993.

150. In its conclusions concerning a complaint lodged against the Government of Guatemala by the International Confederation of Free Trade Unions (Case 1734), the ILO Committee on Freedom of Association drew "the attention of the Government on the one hand, to the importance that it attaches to the principle according to which workers and employers should in practice be able to form and join organizations of their own choosing in full freedom and, on the other, to the point that no person should be prejudiced in his employment by reason of his trade union membership or legitimate trade union activities".

3. Right to health

151. The Human Rights Procurator had received 56 complaints relating to the right to health by 31 October 1994, in comparison with the 66 dealt with the previous year.

152. A total of 1.1 per cent of the overall budget is earmarked for Guatemala's Ministry of Health; of this figure, 49 per cent is allotted to preventive measures and 28 per cent to treatment. The Minister told the expert that an effort is being made to replace a biological approach to health by a broader approach. He also referred to plans to initiate a sectoral reform programme in Alta Verapaz, Chiquimula and Escuintla, as these are the areas in which deficiencies are greatest, with special emphasis on care for children, women and adults, sanitation, nutrition and education. Unfortunately, it has not yet been possible to coordinate policies relating to water (only 28 per cent of the rural population have access to a safe water supply).

153. In addition to these elements, in considering the extreme poverty of the population, it should be added that the main causes of death in Guatemala are infectious intestinal diseases, bronchopneumonia and malnutrition. Cholera, of which there were 30,800 cases - including 309 fatal cases - in 1993, fell to 16,700 cases, 151 of which were fatal, in 1994. The campaign to eradicate poliomyelitis has proved successful and the anti-measles campaign has succeeded in reducing the number of cases to 204.

154. In February, the health workers' strike virtually paralysed services in hospitals. In June, the strike in support of wage increases affected 18 hospitals outside the capital. The Minister of Health said that there was a revolving fund of 4.5 million quetzales for the San Juan de Dios hospital and 4 million quetzales for the Roosevelt Hospital; there were plans to introduce a charge for care, which had hitherto been free.

4. Right to education and culture

155. As of 31 October 1994, 43 complaints under this heading had been dealt with by the Office of the Human Rights Procurator, in comparison with 64 in 1993. Guatemala's school-age population, i.e. children aged from 7 to 14, numbers 2 million, only 1.6 million of whom attend school. There are 50,000 State schoolteachers and 26,000 teachers in private schools. The Minister of Education estimates that there is a shortfall of 40,000 posts for teachers of children who do not currently attend school. Nevertheless, 3,000 teaching posts were created in 1994, 800 of which were in bilingual education. However, it has not been possible to bring down the illiteracy rate, which stands at 43 per cent.

156. The school year was lengthened in 1994 to 140 days, in comparison with 114 in 1993. Distribution of school biscuits (vitaminized bread) has been extended to 1.6 million schoolchildren in infant, primary and secondary schools.

5. The land problem

157. The remarks made in the Expert's previous report about the age-old land problem in Guatemala are still valid. A total of 70 per cent of the indigenous population has no workable land. This fact, in conjunction with the existence of large estates in the hands of a few owners, further aggravates a problem which becomes more acute every day and is not included on either official or political agendas.

158. In the period covered by this report, problems relating to land issues intensified and led to serious conflicts in which people were killed. For example, in February a group of peasants took over land on an estate in Escuintla, claiming that they were entitled to ownership by virtue of a grant made when President Ubico had been in power. On 21 April 1994, 44 peasants from the Olga María estate in Tiquisate (Escuintla) were violently evicted by anti-riot forces when they demonstrated to demand fair wages and a solution to the land ownership problems.

C. Internally displaced persons, refugees and returnees

1. Communities in Resistance (CPRs)

159. Together with other features described in this and previous reports to the Commission on Human Rights, the CPRs are unfortunately an element of the present situation in Guatemala. As a result of harassment and attacks by the army in the 1980s and as they were suspected of collaborating with the guerrillas, whole villages of indigenous people decided to take refuge from

violence by making use of Guatemala's geography. They settled in the mountains and forests, and organized themselves for survival in a hostile natural and human environment for over 12 years.

160. In response to the breakdown of the dialogue with the Government, the CPRs of Ixcán and La Sierra, which were determined to reintegrate themselves in the society to which they belong, decided, in a joint communiqué dated 26 January 1994, to "come out into the open, as a prerequisite to compel the Government to respect us as peasants". On 2 February 1994, in the presence of diplomats and other representatives of European Governments, the Ixcán CPR settled in five new settlements. The five areas of settlement chosen were visited by Mr. Hugo Lorenzo, the then representative of the Expert on the Refugee Repatriation Verification Agency, and on 9 March, by a delegation of the Inter-American Commission on Human Rights and its Executive Secretary, who were accompanied by the Ambassador of Guatemala to the Organization of American States (OAS).

161. In its special report on the human rights situation in the so-called CPRs in Guatemala, the Inter-American Commission pinpoints four fundamental problems relating to the CPRs: military harassment, recognition of collective and individual legal status, the provision of basic services by the State, and the problems of land and economic development. The Commission came to the conclusion that the CPRs are hard-working civilian communities with their own problems and solutions. The restoration of normal life in the communities is both a contributing factor and a consequence of the overall peace process in Guatemala.

162. There are scant opportunities for the members of the CPRs to lead reasonably normal and healthy lives. Since 11 February 1994 various acts of intimidation have been carried out against the communities by the army. On 20 April, a group of soldiers from the Cary detachment occupied the Nueva Concepción centre, Cuarto Pueblo, and destroyed the bean harvest of the San Luis community. In September, the La Sierra CPR publicly announced that soldiers based in Chajul had instigated clashes between the peasants and the members of the CPR, with the overt collaboration of the mayor of Chajul.

163. On 20 November 1994, the Expert visited the Ixcán CPR in the Santiaguito community, for the second time. The decision to settle "in the open" has brought undeniable benefits which are reflected in the state of mind of the community's members, and in their improved living conditions, which were subhuman where they lived before. Regarding security issues, the Community members told the Expert that there had been patrols by the army in neighbouring districts from March to May. Strictly speaking, the greatest problems are attributable to the population's lack of documentation, as a result of which they are detained by the soldiers whenever they leave the Community, with all the security risks which that entails.

164. There are teachers in this community, who have trained there, and it receives health support from the non-governmental organization Médecins du Monde. The public services provided by the State have not yet reached the Communities. In this regard, the Minister of Health told the Expert that it was impossible to implement official plans because the CPRs refused to allow

State officials to visit them. It would seem reasonable to endeavour in some way to overcome the attitudes of both parties in order to consolidate sensible coexistence between all Guatemalans.

2. Internally displaced persons

165. The number of internally displaced persons in Guatemala is estimated at 1 million. They are inhabitants of rural areas affected by violence, many having taken refuge in the cities, particularly the capital. This sector of the population faces fundamental problems linked to the lack of basic services (water supply, electricity, gas, sanitation), adequate housing, overcrowding and legalization of the places designated for their housing. They also complain of harassment.

166. The members of the Guatemalan National Council of Displaced Persons (CONDEG) described to the Expert the problem faced by displaced persons living in the settlements around the capital on account of their lack of minimum shelter and basic environmental facilities. Regarding their living conditions, they told the Expert that only 4.5 per cent of the families have running water, the others being forced to purchase water. They lack drainage and proper toilet facilities, and there is no refuse collection, on account of which refuse piles up in the streets and there is a risk of pollution and infection. There are no green areas or leisure facilities. About 52 per cent of this sector of the population suffer from gastro-enteric illness and about 61 per cent from respiratory infections.

167. Regarding security, the members of CONDEG told the Expert that Lorenzo Quej Pu, a member of the Mario Antonio Díaz settlement in Zone 21 in Guatemala City, who had been kidnapped on 12 January 1994, was still missing. They also said that they had been threatened in tracts which assimilated them to the URNG and that in November their offices had been under surveillance.

168. The members of the Mario Antonio Díaz settlement, located on land belonging to the Banco Nacional de la Vivienda, were threatened with eviction. Consequently, on 13 June 1994 a demonstration was held in the Parque de la Constitución and led to negotiations, in which the CEAR took part. This resulted in a commitment to allocate plots on which the landless could resettle and thus receive a form of economic compensation.

3. Refugees

169. The Mexican Commission for Assistance to Refugees (COMAR) estimates the number of Guatemalan refugees in Mexico at 42,000. The Standing Committees put the number of refugees at about 26,000 in Chiapas, 12,000 in Campeche and 3,000 in Quintana Roo. In addition, 15,000 children have been born during exile in Mexico.

170. Although the Mexican Government's treatment of the refugees has remained unchanged in legal terms, the Zapatista insurrection of 1 January 1994 in Chiapas has caused a change in the atmosphere surrounding them. Initial rumours - subsequently dispelled by the Government of Mexico - of URNG

involvement in the Zapatista uprising generated hostility towards the Guatemalan refugees. The situation was subsequently aggravated by the drought in Campeche and Quintana Roo.

171. Most of the refugees have organized into contingents in preparation for their return, although repatriation has been delayed by slow progress in seeking and acquiring land, which has led to frustration. Nevertheless, the refugees continue to perfect their organizational skills in this area. The Mamá Maquín women's organization has made significant progress in this respect.

4. Returnees

172. After the signing of the agreements of 8 October 1992, a number of contingents of refugees in Mexico prepared to return to Guatemala. On 20 January 1993, the first organized group arrived and settled in the Polígono 14 zone, which was renamed Victoria 20 de Enero, which the Expert visited during her 1993 mission. On 8 December 1993 the second return operation began with, as its destination, Tercer Pueblo, which had been renamed Pueblo Nuevo-Resurrección. In this instance, the returnees settled temporarily in Veracruz, pending a decision by the army to transfer the military detachment from Tercer Pueblo. On 25 January 1994 it was ascertained that the transfer, to a location one kilometre away, had taken place.

173. On 12 January 1994, the return of a third contingent, comprising approximately 210 families or 1,019 persons, was confirmed; they settled on the Chaculá estate (Nentón, Huehuetenango), now known as Comunidad Nueva Esperanza. On 19 November 1994 the Expert visited the estate and saw that representatives of the Office of the Human Rights Procurator, the Catholic Church, UNHCR and national non-governmental organizations, as well as a European Union programme, were present. The estate is in a conflict zone which is frequently patrolled by the army and frequented by the URNG, and in which four clashes took place during the month prior to her visit. Nevertheless, the Cooperative's Managing Body has adopted a constructive and open-minded approach to the surrounding communities and institutions. In the health sphere, there was no evidence of government assistance, but only of assistance from non-governmental organizations. Nor was the Ministry of Education represented. The food shortage is offset by donations from the Catholic Church; the community has implemented a drinking-water and latrine-installation programme.

174. On 13 May 1994, preparations began for the return of the contingent from Campeche and Quintano Roo, comprising 338 families (1,648 persons), to Ixcán Veracruz, Santa María el Tzejá, Tercer Pueblo. These refugees returned by air, and there was evidence of disagreement between the National Committee for Aid to Returnees, Refugees and Displaced Persons (CEAR) and the Standing Committees of Representatives of Guatemalan Refugees in Mexico on account of the military presence in the areas of settlement. As a result, the returnees decided not to settle in Mayalán until the military unit had been transferred, as it was shortly afterwards. On 20 November 1994, the Expert visited them in Mayalán. She was informed that the CEAR was behind with the delivery of food, which is checked in Veracruz, thereby making it necessary to travel to obtain food. When the question was put to the CEAR, its official said that the food

was delivered in Veracruz because the authorities felt that the settlement in Mayalán would be unsafe until the mines had been cleared, and that the returnees had themselves decided to travel to Veracruz. The Expert was also able to talk to the members of a German non-governmental organization carrying out mine-clearing operations under an agreement reached by UNICEF and UNHCR.

175. The returnees in Mayalán also expressed their communications requirements, which focused on the building of a bridge over the Deseado river. They also requested that a school be built, as there were 110 children of school age, together with a drinking water supply system. The CEAR's failure to provide basic shelter had led to difficulties. In this community, the Expert talked to the widow of Manuel López, a returnee to Mayalán who had been found dead in Veracruz.

176. Also in May 1994, a number of families returned to Cuarto Pueblo, where they were visited on 20 November 1994 by the Expert together with Mr. Arnaldo Ortíz, her current representative on the Repatriation Verification Agency. The complaints heard in Mayalán concerning the delivery of food in Veracruz by the CEAR and failure to provide basic shelter were repeated. The returnees requested a UNHCR presence in the area, but that is not possible in view of the lack of authorization by the Government owing to the security concerns expressed about Mayalán by the Office of the Human Rights Procurator. This community is completely isolated and has requested a radio, a community telephone and the construction of a road. At present, in order to leave the community by land returnees have to travel over two hours to the Xalbal river.

177. On 15 October 1994, 90 families (441 persons) returned by air from Campeche and Quintana Roo to the Xamán estate in Chisec (Alta Verapaz). On 18 November, 216 families (852 persons) returned by air to Fray Bartolomé de las Casas. The Expert visited them on 26 November as they were settling in. She was informed that at the time of their arrival rumours had circulated that the army would "get rid of anyone wandering around late at night", but fortunately nothing of the kind happened. On 29 November 1994, 38 families (162 persons) returned to Ixcán.

IV. CONCLUSIONS AND RECOMMENDATIONS

Office of the Human Rights Procurator

178. There is no denying the importance in the Guatemalan context of the existence of this institution, which is becoming, as it were, the human rights conscience of the country. This has led to increased support for its work and to calls for the unstinting provision of the material and human resources needed in order to strengthen it. The Procurator's Office should find a way of maintaining a more effective presence in rural areas by increasing the number of its branch offices or appointing more staff members in existing branch offices so that they may make more frequent visits to municipalities.

179. For the purposes of the work of the Procurator's Office, it is essential that there should be a mechanism for the investigation of human rights violations operated by trained civilian personnel and covering the entire

country. The reorganization of the Department of Investigations, which now has only a skeleton staff, and the granting of authority to institute proceedings for the follow-up of its decisions would help strengthen it.

180. In the exercise of its functions, the Office of the Human Rights Procurator must meet the actual human rights needs of the Guatemalan people and, consequently, take account of the particular indigenous nature of its composition. The Office should therefore be reorganized so that it may face this challenge and its activities may be carried out in the rural and indigenous context of 60 per cent of the Guatemalan population.

Policy of the Executive in the area of human rights

181. The national and international legal instruments in force in Guatemala in the area of human rights need to be accompanied by an active approach by the authorities, and by society as a whole, in order to promote an everyday culture of respect for human rights. In this context, it is important that civilian power should be consolidated at all levels and throughout the country. Support therefore needs to be provided for the departmental and municipal authorities so that they may be genuinely representative of the population and have decision-making capacity enabling them to exercise their functions autonomously.

182. During 1994, COPREDEH coordinated the Government's action for the submission of periodic reports in accordance with treaties adopted under United Nations auspices, and also the representation of the State in international bodies for the protection of human rights. COPREDEH needs to strengthen its status as a civilian institution. In view of its origins, it should concentrate its efforts on coordinating the policy of the Executive in order to ensure that the international human rights instruments binding on Guatemala are implemented, both de jure and de facto within the country. It should avoid the easy temptation of simply presenting an image of the country abroad that does not reflect the true situation.

183. In connection with foreign policy, the Government conducted studies during the year to implement the recommendations contained in the Expert's preceding report. However, no significant progress has been made in the process of the ratification of: the Optional Protocols to the International Covenant on Civil and Political Rights relating to the consideration of individual complaints by the Human Rights Committee and the abolition of the death penalty; ILO Convention No. 169 concerning Indigenous and Tribunal Peoples in Independent Countries; or the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Likewise, the competence of the Committee against Torture and the Committee on the Elimination of Racial Discrimination to receive individual communications under articles 22 and 14 of the treaties establishing them has not been recognized.

The militarization of society

184. The strengthening of civilian authority in a context of transition and in the light of an advancing peace process means that military authority has to be brought into line with the provisions of a State subject to the rule of

law. This is a matter that the parties to the peace negotiations have recognized as being of major importance and is still under discussion. This is not the place to speculate about what the size of the army should be or about its professionalization. On the other hand, it is the place to consider those of its actions which constitute violations of human rights or interference in matters reserved by the rule of law for civilian authority.

185. The problem of forcible recruitment was particularly serious during the first half of the year. Consequently, the President of the Republic's political decision to order that only volunteers would be recruited until legislation on military and social service had been adopted was an important one. It is to be hoped that this order will be fully complied with, and that the Legislature will discuss the matter promptly and give the President's sound political decision the force of law.

186. There has been no progress in the demilitarization of the Presidential General Staff (EMP), since its size has not been reduced and its functions have not changed. With regard to State intelligence, a plan has been drawn up that does not entirely rule out participation by the military sector. Moreover, military jurisdiction for cases involving ordinary offences has been limited, but it has not been agreed that the ordinary courts should hear cases involving military personnel on the same basis as other citizens. It is therefore necessary to repeat the recommendations made in the preceding report on the reorganization of EMP as a civilian service to assist the President, the establishment of a civilian intelligence system, with the consequent restriction of the functions of the Intelligence Department of the National Defence General Staff to strictly military matters, and the strict limitation of military jurisdiction to the hearing and trial of cases involving military offences.

187. Both the PACs and the institution of "military commissioner" have in practice deviated from the purposes for which they were established, becoming agents responsible for creating social violence that takes the form of human rights violations. Many statements along these lines have been made by society and by the Office of the Human Rights Procurator. To the extent that they continue to be necessary, the counter-insurgency and intelligence functions carried out by the PACs must be taken over by the military, which must have a monopoly on the use of force in accordance with the law and be accountable to the public through the channels established under the rule of law. In this connection, the recommendation that the PACs should be disbanded is reiterated. With regard to the military commissioners, it should be made clear that their main function - namely, military recruitment - is no longer relevant in view of the above-mentioned presidential decision to introduce new legislation and, in the meantime, to accept only volunteers. Consequently, the disbanding of this institution would considerably improve the social climate and would not in any way prejudice the system of military and social service.

Police system

188. The situation in Guatemala in 1994 is characterized by the existence of a large number of police institutions which are subordinate to various government bodies, are militarized to varying degrees, and are accused of

abuses of power, corruption, lack of professionalism, and hence inefficiency. The Government undoubtedly has to guarantee the security of citizens effectively. To this end, efforts must be made to set up a new police system which is answerable to the civilian authorities and will permit the recruitment of public-spirited personnel, provide them with suitable professional training and pay them appropriately. Such an undertaking will require a decision to disband the existing police forces and establish a single new civilian police force. Action to combat crime would thus be more effective and would reduce the current alarming rates that also include problems unrelated to ordinary criminality. On the basis of this approach, it is also proposed that the Ministry of the Interior and the key services of the existing National Police should be demilitarized.

Administration of justice

189. A reduction in the degree of militarization of society, and an effective police system which will regain its prestige and be able to deal reasonably with outbreaks of crime, require the assistance of the Judiciary. The administration of justice in the service of justice would enable action to combat impunity to speak louder than words. Not only must the most suitable and honest persons be judges, but they must also have the necessary means to enforce the decisions they reach - independently, autonomously, impartially and without harassment. These qualities must be guaranteed in theory and in practice. The establishment of a general judicial council, the improvement of the School of Judicial Studies and the establishment of a career in the Judiciary are steps that need to be taken in order to strengthen the State organ which is, in the final analysis, the guarantor of the realization of human rights. To this end, the Basic Principles on the Independence of the Judiciary (confirmed by the General Assembly in its resolutions 40/32 and 40/146) are a useful tool for bringing decisions on the transfer, dismissal and promotion of judges into line with objective and universal standards.

190. A number of prominent cases which reveal serious violations of the human rights of victims, claimants and accused persons are awaiting judicial rulings. A clear-cut decision is needed in order to shed light on the objective truth. The slowness or absence of progress in these cases is destroying the hopes and belief in justice of the ordinary man who would normally seek justice. In the final analysis, while this situation does not encourage impunity, it at least indicates that impunity is tolerable, and, by any reckoning, this is incompatible with the realization of human rights and contrary to the rule of law.

191. The entry into force of the Code of Criminal Procedure on 1 July 1994 is a good sign, but does not in itself resolve the question of the effectiveness of the Judiciary. The necessary decisions must be taken for the implementation of the Code, whose possible flaws should not be prejudged, but remedied on the basis of experience. Substantive law also needs essential inputs that will enable judges to reach decisions based on characterizations of offences that reflect reality. The amendment of the Penal Code must therefore cover, inter alia the crimes of torture, unlawful harassment,

extrajudicial execution and the enforced disappearance of persons and, in general, conform to Guatemala's international commitments and current international human rights law.

192. The Public Prosecutor's Office must also have the benefit of the guarantees enjoyed by the Judiciary. Its autonomy and independence must be strengthened and it must be protected from any harassment. The enormous responsibility for the initiation of criminal proceedings and for the conduct of investigations that the Code of Criminal Procedure vests in the Public Prosecutor's Office means that its functions have to be properly distributed, that smooth channels of communication have to be established with the military and the National Police, and that a clear-cut policy has to be formulated on criminal prosecution in cases of human rights violations.

193. The poor standards which exist in the prison system need to be remedied by means of legislation which organizes the prison service along professional lines and takes adequate account of the rights of prisoners with a view to achieving the goal of social rehabilitation.

Civil and political rights

194. The political transition in Guatemala has been reflected in a gradual shift in the most frequent patterns of human rights violations, which are becoming part of the general context year by year. The declines in the number of complaints of enforced disappearance and torture unfortunately do not reflect a reduction in serious problems, but rather a trend towards other no less serious problems, such as cases of extrajudicial execution. Putting an end to this situation is not an impossible task; it is just a matter of taking the right decision. The operation of the security forces within the law and the efficiency of a Judiciary which rules promptly and in proper form are the rule-of-law remedies for the proliferation of human rights violations and, at the same time, specific examples of what can be done to promote a culture of respect for human rights.

195. Other manifestations of human rights violations, such as threats, have increased spectacularly. The visible heads of organized society and its members are subjected to widespread harassment. This constitutes a well-directed attack on the already weakened social fabric. The peace process which began on the day after the signing of the firm and lasting peace requires a social rapprochement that must be promoted on the basis of respect for pluralism in all its forms.

196. The validity of personal documentation is an important issue in Guatemala. In this connection, the civil registry should be reorganized so as to enable it to issue a single identity document which would be acceptable to all national authorities, provide proof of identity for the purposes of the exercise of voting rights, and record military or social service, as appropriate.

Economic, social and cultural rights

197. The situation of widespread poverty, recognized by President Ramiro de León Carpio, is growing dangerously worse. Social commitment is essential, but not only on the part of the Government. Steps need to be taken by those who hold economic power, at least in order to ensure respect for the legislation in force on the minimum wage, social security and taxation.

198. The forums that exist on paper for the exercise of trade union rights must be made to exist in practice as well. The Government and employers must find peaceful and reasonable ways of coexisting with the trade union movement that exclude any direct or indirect discrimination or repression.

199. Government plans and private bodies need to take account of the problem of unfair land distribution. Both the Mayan culture, which is predominant in Guatemala, and the farming tradition of the Guatemalan people have land as their main support. This question therefore needs to be dealt with on the basis of a sense of justice that will offer better distribution and easier access. The reorganization of the land register is a necessity. Effect must also be given to the intention, expressed to the Expert by the President of the Republic in 1993, of legalizing defective titles of ownership.

200. The areas of health and education have been marked by small but practical achievements which have gone unnoticed in view of the extent of the problems the country faces. Efforts along these lines must therefore be intensified without sparing material and human resources; emphasis must be placed on particularly affected groups, such as women, children and indigenous peoples.

Indigenous communities

201. Historically, the majority of the Guatemalan people, 60 per cent according to official figures, has been ignored. Although the formal legal system does not discriminate against the indigenous majority, in practice it does not offer it any protection. There is thus a de facto situation of discrimination which excludes the indigenous communities from the legal, political, economic and social systems, thereby depriving the representative nature of institutions of legitimacy. Measures must be adopted to channel the participation of the country's indigenous peoples. The laws called for in the Constitution must be enacted and implemented; the electoral law must be amended to give them an appropriate and genuine political presence that is compatible with respect for their culture, languages and traditions. Emergency plans should be drawn up with the participation of the Mayan communities in order to facilitate their rapid access to basic State services in the areas of education, health, hygiene, food and security.

Communities in Resistance, displaced persons, refugees and returnees

202. The situation of internally displaced persons requires the Government to adopt the fundamental measures necessary to guarantee them basic and dignified living conditions, titles to their dwellings and personal documentation.

203. The La Sierra CPR is still where it was originally set up; there is another CPR in El Petén; and the Ixcán CPR has moved to villages, thereby

improving its living conditions. The State's civilian institutions have not reached them and have not even documented them, and so there is still a palpable feeling of insecurity in these communities, which consider themselves harassed by the army. Similarly, they are not in practice recognized as a civilian peasant population, as provided for in the recent Comprehensive Agreement on Human Rights.

204. The process of the return of the refugees in Mexico is continuing irreversibly, although not as quickly as the refugees would like. Strict compliance with the commitments made in the 8 October 1992 and related agreements is not only necessary, but is the common cry of the communities of returnees. Their security must be guaranteed, but also their health, education and housing; arrangements must be made for their documentation, their security must be ensured and efforts must be made for their appropriate reintegration. The achievement of these objectives should be the top priority of the Verification Agency provided for in the 1992 agreements.

International humanitarian law

205. Under conventional and customary international law, the parties to an internal armed conflict whose cessation is being negotiated have an obligation to respect international humanitarian law. Not only the minimum level of protection provided for in article 3 common to the four Geneva Conventions of 1949, but also the protection of the civilian population, of goods essential for its survival, and of cultural objects and places of worship, and the protection of works and installations containing dangerous forces, as governed by Protocol II, must be observed by both parties.

Legislature

206. During the reporting year, the Legislature has not produced any instruments that constitute progress in terms of human rights. The representatives of the people need to take part in the adoption of human rights laws. The present report has consistently drawn attention to lacunae and shortcomings that require the adoption of new provisions. This is particularly true with regard to the prison system, electoral legislation, the Penal Code, the provisions of civil law which reflect a kind of degradation of women, and military and social service. Congress should also try to ensure the prompt adoption of protocols for the ratification of international human rights treaties submitted to it by the Executive.

Peace process

207. There is no doubt that the decision to resume the peace negotiations has given a positive character to the situation in Guatemala and raised hopes of practical progress. The basic progress made in the peace negotiations in 1994 is therefore to be welcomed, particularly the Comprehensive Agreement on Human Rights, which permitted the establishment, on 21 November 1994, of the United Nations Human Rights Verification Mission in Guatemala (MINUGUA). Both parties must decisively facilitate the work of MINUGUA, since there will be a marked improvement in the human rights situation if MINUGUA can carry out its

functions effectively. For the same reasons, we believe that MINUGUA's operational presence in the country will be an element in enabling the ongoing negotiations to move, as soon as possible, to a firm and lasting peace.

Action by the Commission on Human Rights

208. As shown in the present report, the human rights situation in Guatemala in 1994 continues to require close observation by the Commission on Human Rights. The Expert is aware that this statement will be read in a context in which MINUGUA will have been working for at least three months by the time the Commission comes to take a decision. The aim is precisely to strengthen the means and methods of work of MINUGUA and of the Commission on Human Rights in order to provide greater assistance in the improvement of the human rights situation in Guatemala.

209. The Commission and MINUGUA have not been present in the country at the same time or as a result of the same sources and mandates, but they have the same objective of improving conditions for the enjoyment and exercise of the human rights protected by the international provisions that are binding on Guatemala. The Commission's consideration of human rights in Guatemala began in 1979; since then, various mandates have been granted for the investigation of violations of human rights and for the provision of assistance to the Government. The mandates must be seen in the broader context of the goal of international cooperation for the promotion and encouragement of respect for the human rights and fundamental freedoms of all without discrimination, as stated in Article 1, paragraph 3, of the Charter of the United Nations. In accordance with this guideline, in carrying out its work the Commission on Human Rights focuses on the universality, interdependence and indivisibility of human rights, as confirmed by the World Conference on Human Rights. The legal parameters of the reports submitted annually to the Commission are those contained in the Universal Declaration of Human Rights, customary international human rights law, and all the universal, regional, general and particular treaties by which Guatemala has expressed its consent to be bound. It is thus the institutionalized international community that supports the Commission's action.

210. MINUGUA, for its part, is the result of an agreement between the Government of Guatemala and URNG, and constitutes one of the key elements of the peace negotiations which are continuing and whose positive results are desired by Guatemalans and backed by the international community. The functions and competence of the Mission are defined in the instrument calling for its establishment, in which the parties wanted to place emphasis on certain civil and political rights. Its presence in the country, as accepted by the Government in a headquarters agreement to be concluded shortly, is based on the need for the direct verification of possible violations of human rights resulting from incidents and situations occurring after its establishment through the acceptance of complaints and their assessment and follow-up in order to decide whether or not violations have occurred and, accordingly, help to strengthen the institutions of the Office of the Human Rights Procurator, the Judiciary and the Public Prosecutor's Office.

211. The means and methods of work provided for in the mandates of the Commission on Human Rights and MINUGUA are also different, but complementary.

The Independent Expert's mandate is to examine the human rights situation in Guatemala and evaluate the measures adopted by the Government in accordance with the recommendations made to it by the Expert and to provide assistance in the field of human rights. The former is not part of the specific mandate of MINUGUA, which is, however, empowered to follow up complaints; this the Expert cannot do, because she is not in the field, and so the mandate complements the overall examination referred to above. With regard to assistance, the recommendations made in the report submitted to the Commission are the result of the preceding evaluation and contain overall assessments whose degree of detail and practical implementation may be the subject of technical cooperation; the substantiated opinions of MINUGUA and the Expert will undoubtedly influence any decision on this question.

212. The two mandates require reports to different bodies. The Expert's reports are thus submitted to the Commission as public documents, while MINUGUA's are, in accordance with the Comprehensive Agreement, submitted to the Secretary-General of the United Nations, to the parties and, possibly, to the General Assembly through the Secretary-General.

213. The day when Guatemala will be able to walk alone on the path of human rights unaccompanied by agencies of the international community is undoubtedly less far off than before. In any event, in the hope that this day will arrive in the best possible conditions, the United Nations should not fail in its responsibility of assisting it in the task of improving the human rights situation. This is the challenge from which the coordinated and complementary work of MINUGUA and the Commission on Human Rights must not shrink.

Annex

PROGRAMME OF WORK OF THE EXPERT DURING HER SECOND VISIT TO GUATEMALA

(also including activities in New York, Washington, Mexico City and Geneva)

Date

Places visited and persons interviewed

10/11/94 New York

Permanent Representative of Spain to the United Nations in New York;

Mr. Alvaro de Soto, principal political adviser to the Secretary-General;

Mrs. Rosario Green, Assistant Secretary-General for Political Affairs; Deputy Minister for Foreign Affairs and Permanent Representative of Guatemala to the United Nations in New York;

Mr. Raúl Molina, Representative of the Joint Office of the Guatemalan Opposition (RUOG).

11/11/94 Mrs. Denise Cook, Representative of the Guatemala Unit of the Department of Political Affairs;

Mr. Marrack Goulding, Under-Secretary-General for Political Affairs;

Mr. Leonardo Franco, Head of MINUGUA;

Representatives of the following international non-governmental organizations:

Lawyers' Committee for Human Rights;

Amnesty International.

14/11/94 Washington

Mrs. Anne Patterson, Deputy Assistant Secretary for Inter-American Affairs, and representatives of the Department of State of the United States;

Representatives of Human Rights Watch/Americas, a non-governmental organization;

Executive Secretary and advisers of the Inter-American Commission on Human Rights (CIDH).

15/11/94 Mr. Edmond Mulet, Ambassador of Guatemala to the United States;

Mr. César Alvárez Guadamuz, Permanent Representative of Guatemala to the Organization of American States;

Mrs. Jennifer Harbury and Mr. José Pertierra, lawyer.

16/11/94 Professor Claudio Grossman, member of the Inter-American Commission on Human Rights.

17/11/94 Guatemala City

Mr. Jorge Mario García Laguardia, Human Rights Procurator, and area directors of the Office of the Human Rights Procurator;

Mrs. Rigoberta Menchú, Nobel Peace Prize winner, and Mr. Gustavo Meoño;

Mr. Ronalth Ochaeta and representatives of the Human Rights Office of the Archdiocese of Guatemala;

Mr. Factor Méndez, representative of the Centre for Human Rights Research, Study and Promotion (CIEPRODH);

Mr. Michel Gabaudan, representative of UNHCR.

18/11/94 Mr. Mario Roberto Guerra Roldán, President of the Supreme Electoral Tribunal;

Mr. Danilo Parrinello, Minister of the Interior;

Mr. Salvador Figueroa, Director General of the National Police;

Mr. Oscar Barrios Castillo, President of the Supreme Court of Justice and the Judiciary;

Mr. John Shattuck, Assistant Secretary for Democracy, Human Rights and Labour, and Mrs. Marilyn McCafee, Ambassador of the United States to Guatemala;

Representatives of the following national non-governmental organizations:

Confederation of Religious Orders of Guatemala (CONFREGUA);

Mutual Support Group (GAM);

International Peace Brigades;

Association of University Students (AEU);

Guatemalan Widows' National Coordinating Committee (CONAVIGUA);

"Runujel Junam" Ethnic Communities Council (CERJ);

Representatives of the La Sierra, El Ixcán and El Petén Communities in Resistance;

Guatemalan National Council of Displaced Persons (CONDEG);

Standing Committees on Guatemalan Refugees in Mexico;

National Reconstruction Committee of the Office of the President of the Republic;

Mr. Jean-Pierre Givel, Delegate of the International Committee of the Red Cross (ICRC).

19/11/94 Coatepeque (Quetzaltenango) and Chaculá estate (Huehuetenango)

Visits to both places accompanied by the Human Rights Procurator, the UNHCR representative and Mr. Arnaldo Ortiz, Centre for Human Rights consultant.

20/11/94 Ixcán (El Quiché)

Accompanied by the above-mentioned persons, the Expert visited the Santiaguito Community in Resistance and the communities of returnees in Mayalán and Cuarto Pueblo.

Guatemala City

Mr. Augusto Willemsen Díaz, Deputy Human Rights Procurator, and Monsignor Gerardi, Auxiliary Bishop of Guatemala.

21/11/94 Mrs. Arabella Castro de Comparini, President of the Congress of the Republic; Deputy Ricardo Choy, Chairman of the Committee on Indigenous Communities, and Deputy Ana María Otzoy, member of the Committee; Deputy Roberto Stein, Chairman of the Human Rights Commission;

MINUGUA inauguration ceremony;

Mr. James Fox, Ambassador of Canada to Guatemala;

Specialized agencies and organs of the United Nations system (MINUGUA, UNICEF, WFP, UNHCR, PAHO/WHO, UNDP and PRODERE);

Ambassadors of the European Union;

Mr. Ramiro de León Carpio, President of the Republic;

Mr. Leonardo Franco, Head of MINUGUA.

22/11/94 Mr. Jorge Cabrera, Chairman of the Presidential Commission for Coordinating Executive Policy in the field of Human Rights (COPREDEH);

Mr. Jorge Mauricio Rodríguez Weber, Chairman of the Ad Hoc Committee for Aid to Refugees and Displaced Persons (CEAR);

Mr. Acisclo Valladares, Procurator-General;

Mrs. Anabella Morfín, Minister of Labour;

Mr. Abraham Méndez García and Mrs. Elizabeth Valdés Orellana de Zetina, prosecutors;

Mrs. Martha de Carpio;

Mrs. Zoila Reyes Illescas, Chairwoman of the Guatemalan Journalists' Association;

National Electrification Institute Workers' Union (STINDE);

Mrs. Sally Aguilar;

Judiciary Workers' Union;

Mrs. Lesbia Tevalán, Chairwoman of the Guatemalan Association of Jurists;

Trade Union and People's Action Unit (UASP);

General Guatemalan Workers' Union (CGTG);

Mr. Alfonso Novales Aguirre, Chairman of the Guatemalan Constitutional Law Institute;

Mr. Frank La Rue, Centre for Legal Action on Human Rights.

23/11/94 Colonel Otto Pérez Molina, Chief of the Presidential General Staff;

General Mario René Enríquez Morales, Minister of National Defence;

General Marco Antonio González Taracena, Chief of the National Defence General Staff and acting director of the Mobile Military Police (PMA);

Mrs. Marithza de Vielman, Minister for Foreign Affairs;

Joint meeting with Monsignor Gerardo Flores Reyes (Bishop of the Catholic Church), the Mediation and Verification Agencies set up under the 1992 Agreements on the Return of Refugees, and representatives of GRICAR;

Mr. Jafeth Ernesto Cabrera, Rector of USAC; Higher University Council;

Coordination Office of Organizations of the Mayan People of Guatemala (COPMAGUA):

Unidad de Consenso Maya;

Academia de Lenguas Mayas;

Asamblea Permanente Maya;

Consejo de Organizaciones Mayas de Guatemala;

Mr. Douglas González Dubón.

24/11/94 Mr. Gabriel Larios Ochaita, President of the Constitutionality Court;

Mr. Alfredo Tay Coyoy, Minister of Education;

Mr. Héctor Rosada, Chairman of the Peace Commission (COPAZ);

Santa Teresa Women's Prison;

Director-General of the prison system, prison governor and officials; private meetings with various prisoners;

Association of Relatives of Detained/Disappeared Persons (FAMDEGUA);

Myrna Mack Foundation;

Mrs. Clara Arenas, Director of the Institute for the Advancement of the Social Sciences (AVANCSO);

Mr. Héctor Pinto, from San Gregorio Piedra Parada estate;

Monsignor Jorge Mario Avila, President of the Episcopal Conference of Guatemala (Catholic Church);

Ambassadors from the Group of Countries Friends of Guatemala.

25/11/94 Mr. Ramsés Cuestas, Attorney General;

Mr. Gustavo Hernández, Minister of Public Health;

Mr. Mario René Cifuentes, former Director of the National Police;

Mr. Ramiro de León Carpio, President of the Republic;

Monsignor Rodolfo Quezada Toruño, President of the Assembly of Civilian Sectors;

Mrs. Carmen de Rodas;

Press conference.

26/11/94 Visit to Rabinal and Pacux (Baja Verapaz) and to Fray Bartolomé de las Casas (Alta Verapaz) (community of returnees), accompanied by the Human Rights Procurator, the UNHCR representative and Mr. Arnaldo Ortiz, Centre for Human Rights consultant;

Guatemala City

Mr. Staffan Wrigstad, Ambassador of Sweden.

27/11/94 Mrs. Rosalina Tuyuc and other representatives of the Guatemalan Widows' National Coordinating Committee (CONAVIGUA);

Mr. Leonardo Franco, Head of MINUGUA;

Press Conference;

Departure from the country.

Mexico City

28/11/94 Mr. Toribio Pineda and Mrs. Carmen Camey of the Guatemalan Human Rights Commission;

Mrs. Julia Artiga, Mrs. María Guadalupe García and Mr. José Díaz Esteban of the Standing Committees on Guatemalan Refugees in Mexico;

Ambassador of Spain to Mexico.

30/11/94 Comandantes Gaspar Ilom and Carlos González of the Unidad Revolucionaria Nacional Guatemalteca (URNG);

Mr. G. Schlitter, United Nations Department of Political Affairs, and Mr. Jean Arnault, United Nations Moderator in the peace negotiations.

1-9/12/94 Geneva

Consultations with the United Nations High Commissioner for Human Rights, the Assistant Secretary-General for Human Rights and members of the Secretariat;

Drafting and finalizing the report.